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THE PROCEDURE OF THE HOUSE OF COMMONS

A Study of its History and Present Form

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With an Introduction and a Supplementary Chapter by

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PART VIII

The Course of Business in the House of Commons

CHAPTER I

General Survey

THE preceding volume has been occupied by descriptions of the organisation adopted by the House of Commons for its work, and of the different forms of parliamentary action : we now proceed to consider the core of the whole system of procedure, namely the rules and arrangements which govern the course of business both as a whole and in its separate parts. It will be useful to preface our account with a few remarks of a general character.

The business of Parliament is carried on by applying the forms just studied to legislative, administrative and political ends : they may be used by either of the two factors entitled to share in parliamentary action—that is to say, either by the Government or by the unofficial members of the House. It is obvious that their application of the available forms must be subject to some definite arrangement, prescribing how and when they may be used. On first principles both members and Government must possess rights of initiative, the Government having often a special claim to opportunities for bringing forward their proposals : but a moment's reflection will show that the work of any parliament would speedily fall into utter chaos without some fixed arrangement assigning to each separate matter, and to each stage of it, a definite rank in the succession of business, and a definite measure of parliamentary time. From the nature of the case, any regulation of the kind must take several directions. First, there must, or should, be a certain division over the whole session of such business as is bound to come up at stated periods. In the

second place, provision will have to be made for the disposal of certain matters, in themselves of a purely formal nature, but leading up to substantive measures of legislation or political action—such, for instance, as giving notices of motion, presenting reports, asking questions and discussing the future course of business. These topics are constantly recurring, and the parliamentary machine could hardly be made to work were not some part of each sitting rigorously set apart for disposing of them. They are, and must be kept, perfectly distinct from the substantive business of Parliament, the *motions* and *bills* laid before it.

We have now reached the third and most important of the problems to be grappled with in an arrangement of the course of business. How is what is called upon the Continent the "order of the day" to be drawn up? The section of the programme of work included in the term comprises the substantive business to be transacted by Parliament, the real subjects upon which it deliberates, those directly aimed at attaining some object of state: its contents may take the form of motions expressing the views of the House, of proposals for legislation or of financial measures, or they may be thrown into some other shape.[1] As a general rule, the preponderant part will consist of legislative projects; but there are other matters also included under the head of the "order of the day." It comprises the whole programme of substantive work assigned to a sitting, and should therefore, as a rule, take up the greater part of the time and discussion.

It is, manifestly, on this narrower field that the chief pressure of competition between the factors entitled to initiative in Parliament will make itself felt. All the more urgent,

[1] The instances given above are, of course, only the principal ones. There is nothing to prevent any parliamentary action from forming one of the orders of the day; thus, decisions upon election disputes, disciplinary proceedings against members, resolutions upon the report of a committee of investigation and all other parliamentary matters may be made into "orders of the day" and put into the day's programme of public business, thus becoming independent matters for discussion. But such cases will always be exceptional. In the ordinary course, substantive motions, dealing with some specific action of the Government, financial proposals and bills will make up the main part of the public business.

therefore, is the need for special provisions as to its regulation, *i.e.*, for the framing of rules determining the subjects to be taken as the substantive business of the House from sitting to sitting.

Further consideration, however, is required before it is possible to estimate the full significance of the problem just stated, a significance which, under certain conditions, places it at the very centre of the whole question of procedure.

Looked at in bare outline, the function of a parliament is the formation by an assembly of persons, after deliberation and discussion, of a single composite will with regard to a mass of motions and proposals, each of which has, *a priori*, an equal claim upon the attention of the assembly. Stated thus broadly the task is by no means unique in social and public life. There are many collegiate bodies whose action is of the same or a similar nature, boards of all kinds, bodies of officials, committees of societies, chambers of commerce, assessment commissioners, &c. Such organs or bodies, as well as parliaments, are forced to classify the material which flows in upon them and upon which it is their duty to formulate their will ; they, too, have to fix definite arrangements for their business. As a matter of fact we find that most of them have codes of procedure, rules for dealing with business, under one or other of the names given to such systems. But there is a fundamental difference between the regulations for fixing the course of business in a representative assembly, and any code of rules applicable to the procedure of a body of another nature. In the latter case the problem for solution is purely technical ; all that is wanted is the best method of securing speed, continuity and thoroughness in dealing with the business : no member has any special interest in expediting any particular part of the work or again in preventing its being despatched ; as a rule he is not allowed to have any such interest. Thus the rules of procedure, which are, moreover, generally laid down by some superior authority, are not likely to give rise to any contest in the assembly or college itself. A parliamentary body is in an entirely different position. Here the competition set up by the equality of initiative among the members, and the further competition between the House and the Government

are matters of the greatest importance both psychologically and politically. Almost every social, material or personal interest represented in the House is there met by its direct opponent, and each demands a share in the deliberation and work of the House. The initiative of the Government, whatever may be their constitutional and political relations to Parliament, introduces a further complication; their initiative and their claims to a share of the time of Parliament will inevitably limit and hamper the efforts of non-official members. Even if the Government are regarded as political agents of Parliament, there will still remain a problem to solve. Settled rules and definite arrangements will have to be made, some permanent tribunal will have to be provided with powers of deciding between the conflicting claims of the different factors in parliamentary action, and of allotting and securing to each of them a proper share of direct influence upon the House's programme of work. The difficulties are intensified to the utmost by the conflict between the endeavour, which every Government must make, to place their proposals in the forefront as matters of state necessity, and the efforts of the opposing parties, or of single members or groups, to weaken and if possible to destroy the political existence of the Government.

Whatever the circumstances, it is clear that the solution of the problem is of the utmost importance: the actual output of a parliament cannot exceed what is placed upon its programme of work and thus comes before it for decision: the amount achieved depends upon those factors which exert a decisive influence on the arrangement of its business. From what has been said we can see that, though the difficulty is inherent in the nature of a parliament, different parliaments will feel it in widely varying degrees, determined by the whole of the constitutional arrangements affecting them and by the division of political power between Government and Parliament. It is therefore plain that *theory cannot furnish a solution:* it must depend on political history. If, however, we look for some rational principle to provide us with a simple answer to the question how to arrange the "order of the day," we have not far to seek: we may have recourse to the same principle as lies at the foundation of other

decisions of Parliament, that of accepting the will of the majority. It may be assumed, *a priori*, that the majority of the House will eventually have to decide what order of precedence is to be given to each section of the material submitted to it, to direct both what is to be brought before it and what action is to be taken.

The House of Commons in arranging its work has always, as a matter of fact, made the will of the majority the basis of treatment. The very name "orders of the day," used by the House for hundreds of years, and still used, to indicate the substantive part of its daily programme, gives expression to the acceptance of the principle.[1] At the present day this fundamental parliamentary right survives unchallenged, the House, in theory at all events, being entitled to arrange its own work. No other rule indeed is possible: a parliament which accepts as binding a programme of work imposed by some external authority, a parliament without the legal right at any moment to deliberate upon whatever subject it desires at that moment to consider, has ceased to deserve its name and has sunk to the level of an administrative board.

It is, however, no less true that, without any infringement of the fundamental principle, there may be infinite variety in the actual manner and form in which the rights of a parliament over its programme may be exercised. There are two questions the answers to which will largely

[1] The German word *Tagesordnung*, which might seem to have the same meaning, would be a mistranslation. In the English expression the word *order* has the sense of *command* not that of *arrangement*. The "orders of the day" mean "the subjects assigned to the sitting by orders of the House"; the words do not refer to the order of succession of the business of the sitting or day. It would be more accurate to describe the *permanent* daily framework of the whole course of business as the *order of the day*, than to use this phrase to denote what the House of Commons terms its "orders of the day," though these, no doubt, form the most important section. The ordinary Continental use of the word is, however, confined to the latter meaning. It is worth while emphasising the fact that the solution of the political problem treated in the text is not confined to the arrangement of the *order of the day* in the Continental sense, *i.e.*, of the orders of the day in English phraseology; it extends to the treatment of all the rules and arrangements governing the course of business. We shall have to return, later on, to the precise meaning of "orders of the day" in English parliamentary law. See *infra*, p. 13.

determine what we may expect to find. First, has there been a formation of stable parties, and secondly, what is the relation of the Government to the House? When a parliament falls permanently into two parties, the arrangement of the day's programme, though still technically an act of the House, both important and critical, ceases to be a unanimous resolution, and generally becomes the act of a majority only. Again, so soon as the position of the Government becomes one of absolute dependence upon the House, the House itself will begin to regard Government motions and proposals as its own concerns. In the House of Commons the sway of this conception is hidden, but only superficially, by the appearance of the parties and by the constant presence of an Opposition. With its acceptance there needs must come new views as to the actual mode of application of our principle. It will not be till we reach the end of this Part that we can fully explain all that is involved.

An endeavour has already been made (in Book I) to show how the consolidation and growth of the system of parliamentary government created the necessity for new principles of procedure, and how the changes made were especially directed to marshalling the course of business for the session as a whole and for each individual sitting. It was there indicated how distinctly and how closely the nineteenth century transformation of the relations between Government and Parliament was reflected in the development of this section of parliamentary procedure. The whole of what follows must be read in connection with the discussion previously given: our present task is to describe the existing law; but without knowledge of its historical foundation the description would be practically unintelligible. We must never lose sight of the result of the nineteenth century development of parliamentary government: as we saw before in detail (1) it made Parliament, from which the Government must proceed, directly and solely responsible for the care of state affairs and for the finances of the country, and (2) it transferred to the Cabinet, a committee of the party holding a majority in the House of Commons, practically all initiative in legislation. These two main consequences involved

by necessary implication a third : the endowment of the Government with a far-extending, almost complete, power of disposition over the time of the House and the organisation and arrangement of its work, and—what is the same thing, viewed in another aspect—the reduction, almost to vanishing point, of the initiative of private members. On the other hand, by way of reaction against this tendency and with the object of securing to private members a certain minimum of political freedom of action there were devised certain parliamentary forms of an opposite tendency. The great changes thus effected in the rules and in parliamentary life as a whole give the clues needed for comprehending the account which follows.

CHAPTER II

Classification and Division of Business [1]

TO arrive at any proper conception of the immense flood of work which pours upon the House of Commons at the opening of every session we must call to mind the constitutional position of the House, the extent and variety of the functions it exercises, and the magnitude of its political tasks. The old saying of Sir Edward Coke as to the power and jurisdiction of Parliament may now, with even more emphasis than in his day, be applied to the modern House of Commons. "The power and jurisdiction of Parliament," he declared, "is so transcendent and absolute, that it cannot be confined, either for causes or persons, within any bounds." Indeed at the present day there is no constitutional limit to the jurisdiction of the House of Commons. And, what is no less important from our immediate point of view, the theory of its unlimited powers is translated into actual fact in the countless, almost inconceivable, number of subjects brought before it. Let us enumerate in general terms its fundamental tasks : it has to frame legislation for the whole of the United Kingdom, to consider and grant the supplies for the government of the empire, inclusive of the budgets of India and the non-self-governing colonies, and to dispose of the private bills submitted to it. It has to pass from dealing with estimates amounting to millions of pounds for the government of some Asiatic or African dependency to considering the most trivial details of local government in the United Kingdom or even the special legal position of some single citizen : and again it has to watch and criticise the administration of the empire in every department of domestic and foreign affairs.

Yet more : the House of Commons is the great arena where the conflicts of party are fought ; it is there that a final decision may have to be given as to the political life

[1] Standing Orders 1–13 ; *Manual*, pp. 29–45 ; *May*, "Parliamentary Practice," pp. 209–276.

or death of a Government; within its walls the reputations of statesmen are made or forfeited; upon its benches the political talent of the country is engaged in ceaseless competition, party leaders are selected, men's capacity for rule is tested. Every imaginable interest from every part of the British Empire, every possible aspiration and tendency, material or personal, claims its share of the limited period of the session, each to the exclusion of the rest. They find expression in motions, in proposed laws, in questions and speeches, all going to swell the gigantic total of the business of Parliament; they range from subjects of the most trivial concern to matters of the highest: now some detail of local administration, now some problem of international policy calls for attention, or again some general principle of law, or the investigation, reconstruction, reform or abolition of some administrative arrangement or social institution. All clamour equally for a hearing. If every member is to have an equal power of initiative, and all may compete for a share of the time and attention of the House, there would seem to be but little chance for any.

And, as if this were not enough, there is the added complication introduced by the claims of the Government: in their financial proposals and bills they bring forward what they, and with them a large section of the House, consider to be immediate necessities of state. The Government must needs oppose the rights of initiative of private members, and must endeavour to restrain and limit them. The antagonism between Government and private members is heightened rather than diminished by the nature of the modern constitution, with its essential feature, parliamentary party government. The system converts all state business either directly or indirectly into parliamentary business. Only so long as each measure of Government is supported by a majority in the House of Commons can the Ministry remain in office: it is a mere committee of the majority for the time being. The majority in the House must therefore be constantly prepared to regard the doings of the Government as matters of parliamentary concern, to treat them as its own affairs, nay, as the most important matters which can be brought before the House.

Inasmuch, moreover, as this system of government is based upon party, it further follows that an attack upon every action of the Government is always to be regarded as a legitimate political enterprise on the part of the rest of the House, the Opposition, and that on any occasion the Government's right to exist, which depends on the confidence of the majority, may be put to the test.

We can see, therefore, how the proposals of a party Government must be treated: they must not merely be placed on an equality with the causes advocated by other members: that would be insufficient. They must be able to claim a *priority*. No parliamentary party Government could exist without it.

Enough has now been said to prove that it is a matter of most urgent necessity to lay down principles of arrangement for the introduction, treatment and disposal of the whole mass of business, so as to maintain some degree of equilibrium. To reduce to order this tangled, many-sided struggle for the time and energy of the House, there must be definite rules, firm yet elastic, applying to every item of business from its first appearance to its last. There must be such a classification and order of precedence among the items of business that all interests of the state which arise in Parliament — which are by no means confined to the interests of the Government—are allowed a proper share of parliamentary opportunity. Again, the element of *chance*, of action taken upon the spur of the moment, so far indeed as this is at all compatible with parliamentary life, must be subordinated to the element of stability in the despatch of business, to the necessity of acting upon a prearranged programme. These vital needs are provided for by the rules of the House of Commons to a degree which it would be difficult to excel. The succeeding description of the course of business will show how closely modern procedure has followed the fundamental thought just enunciated. By so doing it has overcome the greatest danger to any parliament —the risk of allowing the choice of subjects for discussion to remain a constant subject of party conflict. We shall have to return to this point in another context: it must be enough for the present to point to the most salient fact in

the whole situation. It is this. Under a set of arrangements which has been worked out by the House of Commons, it has realised a great political principle: it has done so by subjecting the whole heterogeneous mass of parliamentary business to a well-planned group of rules settling the times for disposing of its various parts according to their nature and importance and by laying down a fixed order of precedence among them. We must postpone our discussion of the further general constitutional and political results of the acceptance in English procedure of this one fundamental notion until we have reached a full understanding of the system which has been devised.

The first point to observe is, naturally, what concerns the initiation of an item of business, the manner of introducing it. The realisation of our principle here finds expression in a demand for previous notice, which governs the whole range of parliamentary action. Notice is required from members of the Government no less than from private members. It is often possible to give notice of a motion just before the sitting at which it is to be proposed, but even then the interval, though short, secures a warning sufficient to protect the House against a surprise. Moreover, it is only by strict adherence to the requirement of written notice that the House can enforce the principles and rules which we are about to study: it is an indispensable condition of the whole system of arrangement. The possibility of foreseeing the tasks of the House as a whole for a considerable time in advance enables it so to provide for the disposal of the various parts of its work that no injury is caused to the interests of the state. Another, no less important, object attained by insistence on notice is that every member of the House is kept constantly informed both of the programme of work and of the actual stage which each proposal has reached at any given moment. The three chief appliances, all dependent upon the necessity of notice, used for the purposes we have just sketched, are—

1. The "notice paper."
2. The "order book of the House of Commons."
3. The "votes and proceedings."

The first-named publication is the programme of business for the day: it appears for each sitting and gives careful and extremely minute details of all the orders of the day and notices of motions fixed for the sitting to which it relates; they are grouped on a definitely prescribed plan. There are two editions of the notice paper. The first, what is called the "Blue paper," is published in the morning, and just before the beginning of the sitting the second, the "White paper," appears, incorporating all changes that have been made since the first edition and all further notices that have been received.[1]

The second paper, which has a continuous paging, also appears on every day upon which a sitting is held. It is entitled "The order book of the House of Commons," and contains a list of all forthcoming items of business, whether orders of the day or notices of motions, which have been assigned to any definite sitting, even for weeks or months in advance, and also a separate list of all notices of motions given but not yet fixed for any special day. Further, each Monday it contains a list of all the public bills which have been introduced, together with the names of their respective proposers and a statement of the progress made with each. Government measures are marked with a star.

The morning edition of the notice paper is accompanied by the "votes and proceedings," a printed record of what was done at the last sitting, confined strictly to an enumeration of the technical steps taken, but giving these with the utmost particularity: it contains also lists of all divisions taken and a number of particulars as to private business.

Any regulation and arrangement of matters of dissimilar nature must be preceded by some classification among them. It is possible to devise various groupings of parliamentary transactions, as, for instance, under the heads of the various great constitutional functions of the House, or again under the heads of formal business and substantive business (*i.e.*, such as provides some definite object upon which the House is to pronounce a decision): yet another division is that

[1] When there were divided sittings there were three versions of the notice paper, published one in the morning and one immediately before each of the two sittings.

between public business and private business; and lastly a distinction may be drawn between matters brought forward by the Government and those introduced by private members. There is a certain practical importance in each of these classifications: but the arrangement of the course of business is based upon none of them. According to old-established parliamentary usage the whole business of Parliament is divided into two great classes—*orders of the day* and *notices of motions*.

The former are such subjects for consideration as have been fixed by the House to be taken up at some definite sitting, have been *ordered* to be so considered. The order of the House constitutes the claim of the subject to inclusion in the list of matters for discussion. Notices of motion are matters brought before the House by its members,[1] which they have duly declared their intention of introducing at some definite sitting, and they may be of any nature.[2] Not every motion falls into the class of business called notices of motion: there are also motions for which no notice is required; but their number is small, and so far as concerns substantive motions, motions which have "merits" to discuss, we may say that practically all require previous notice.

A notice of motion may be of an independent nature, *e.g.*, it may be for the adoption of some resolution by the House or for leave to introduce some bill: or again, it may have reference to some order of the day at the sitting for

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[1] The expression applies equally to motions by the Government and to those by private members.

[2] This constitutes the distinction between notices of motion and orders of the day; the former class of items of business is the burden laid upon the House by the initiative of members without the consent of the House; the latter is taken upon itself by the House, under orders which it makes. Since, as we have learnt, the introduction of a bill is technically the result of a motion, the whole of the business of the House may be said to spring ultimately from notices of motion. But a notice of motion is at once transformed into an order of the day, and takes its place in the other class, when the House assigns a definite day for its discussion. So far as concerns the most important of the forms in which the activity of the House is manifested, that of bills, the assignment takes place immediately after the motion for introduction, which motion has long been a valueless excrescence in procedure; it is therefore quite accurate to say that for all practical purposes the *legislative* functions of the House are based entirely on orders of the day.

which notice is given. In the latter case we have to deal with some amendment, or instruction, or motion to postpone a bill or some other similar proposal. A notice of motion only remains such until the House has given some decision upon its subject matter: if the House decides the question which it raises, it disappears altogether from the programme of work; if it is dealt with formally, by the House deciding to discuss it upon some future day, or if it is partly discussed and adjourned to a future sitting, the notice of motion is converted into an order of the day for the sitting to which it is deferred. By virtue of the decision of the House and the order giving expression to it, the motion has been taken out of the hands of its proposer and has become the property of the House.

Everything, therefore, which the House is to be asked to do must either be placed upon the programme for a definite sitting by order of the House itself or be announced by one of the members for a definite sitting. There is no third kind of parliamentary transaction.[1] It follows, therefore, that surprises—except in the rare event of an urgency motion—are absolutely impossible. In other words, "the order of the day" in the Continental sense is governed by a principle of *strict adherence to prior orders or prior notice.* We shall see directly that this principle of fixity is further strengthened by the definite division of sittings between the two classes of business and the principle of priority.

It is evident, from what has already been said, that orders of the day and notices of motion do not form by any means equal parts of parliamentary work. The mere fact that a notice of motion not disposed of by debate and question upon the very day for which notice is given must be converted into an order of the day, is enough to show that by far the greater proportion of the work consists of orders of the day, that the bulk of the continuous labour of the House is the consideration of orders of the day. These are the main occupation of the House; they stand, moreover, for the element of stability and adherence to a settled pro-

[1] The order paper contains notices of motion for which no days have been fixed. But these cannot be made effective, *i.e.*, cannot be brought on for discussion, until a definite day has been fixed for them.

gramme. Notices of motions, on the other hand, bring in the element of striving for special political ends, necessarily bound up with the right of initiative of private members; it is a factor in parliamentary life which, by its claims to accommodation, breaks in with disturbing effect upon the programme laid down by the Government for the work of the session.

It is clear, then, that the distinction drawn by the House of Commons, though in appearance one of mere form, is based upon a political and psychological analysis of parliamentary methods and is of a fundamental nature: but we refrain from entering more particularly into a consideration of its meaning. We need only notice at present the principle of arrangement deduced from the division of parliamentary business into two classes. It provides a solution for the problem previously shown to be inevitable in the drawing up of any order of business, the problem of settling the manner in which, and the authority by whom, the programme of substantive business for each sitting is to be arranged. As we have now learnt, the authority is, theoretically, the House itself: it lays down for itself what it will discuss at each sitting, draws up its own "order of the day." An order, given by the House to itself, to take up such and such a matter on such and such a day is the only form which can give to a subject for discussion any right to a share of the House's fixed programme of work. But such an order is an effective barrier against the otherwise unfettered initiative of members. When the House has placed any particular subject upon its programme, it will consider itself bound by its self-imposed command, unless some express decision to the contrary overrules its prior act of volition and gives preference to some other matter.

There is, however, a loophole by which, without the terms of the order being directly infringed, a possibility may creep in of evading the effect of the House's direction. All that the order appoints is, that on such and such a day a certain subject-matter is to be considered "by order of the House." If the forms of the House leave it open to members (*e.g.*, by moving an amendment to a motion for going into committee) to introduce new motions before the matter

directed to be discussed comes up, any member has a chance of imposing fresh work upon the House, of taking up the whole of a sitting and wholly or partially crowding out the orders of the day. The fact that such proposals would require previous notice would make no difference : the only result of notice would be to warn the House of the likelihood of its being unable to set to work upon the subjects assigned by its own orders to the sitting in question.

The next step, therefore, and a necessary one, is to lay down that on certain days orders of the day are to have precedence over notices of motion. In our historical Book we traced the gradual and hard won victory of this important principle in the order of business of the House of Commons. At the present day it is the foundation stone of the whole system of procedure : immediately connected with it is another regulating idea of the highest importance. The rules recognise a subdivision of orders of the day into two sections, according as their subjects are brought up by the Government or by private members : and it is provided that on certain days of the week Government business shall have precedence both over all other orders of the day and over notices of motions given for those days. Standing Order 4 reads as follows :—

Until the House otherwise direct :—

(*a*) Government business shall have precedence at every sitting except the evening sittings on Tuesday and Wednesday and the sitting on Friday ;

(*b*) At the evening sittings of Tuesday and Wednesday notices of motions and public bills, other than Government bills, shall have precedence of Government business ;

(*c*) After Easter Government business shall have precedence at the evening sittings of Tuesday ;

(*d*) After Whitsuntide, until Michaelmas, Government business shall have precedence at all evening sittings and at all Friday sittings except the sittings on the third and fourth Fridays after Whit Sunday.

We have, therefore, a principle of arrangement among the sittings of the House which may be described as follows. The session is divided into three parts, the points of division being Easter and Whitsuntide. In the first private members have two evening sittings a week and the whole of Friday, the rest being given to the Government. In the second part private members are deprived of the Tuesday evenings, and

in the last they lose also the Wednesday evenings, and (with two exceptions) the Friday sittings also.[1] It will be seen that the share of private members in the time of the House is never very large, and in the course of the session it disappears almost entirely. Practically speaking after Whitsuntide all sittings are reserved by the rule for the Government. Moreover, the three sittings in each week conceded to private members are, as the subsequent clauses of the standing order indicate, assigned amongst themselves to different purposes: the two evening sittings are devoted to motions, the Friday sitting to bills, brought in by private members: in the distinction thus drawn we are reminded of the fundamental division into notices of motions and orders of the day.[2]

There is yet one more regulation as to arrangement which finally establishes the commanding position of the Government. Standing Order 5 provides:—

> On days on which Government business has priority, the Government may arrange such Government business, whether orders of the day or notices of motion, in such order as they may think fit.

Under this order the Government have the power at all times of arranging their parliamentary action in accordance with the political and administrative needs of the moment, without having to ask for the consent of the members o the House, or even of their own party. They occupy the House on Government days to suit their own convenience, and in accordance with the requirements of their own political strategy.

We may for the moment pass over the salient characteristic of these regulations—the immense preponderance given to the Government and their proposals in drawing up the weekly programme: we shall have shortly to return to this point. Let us fix our attention upon the principle of arrangement expressed by the rules just stated: we shall arrive at the following result.

The course of business has received from the standing orders almost as much stability and adherence to programme as can be given to it. The daily task of the House is not

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[1] See Supplementary Chapter.

[2] The following table shows the division of parliamentary time from 1888 to 1905. The first day of meeting in each session is excluded and

only laid down in advance, but the carrying out of the programme at each sitting is to a large extent secured. Subject to the exceptions mentioned below, the possibility of Government business being subjected to delay or interference by the initiative of private members is excluded, and private members are confined to a very small proportion of parliamentary time. Even then a definite arrangement is imposed upon their action: special days are assigned to motions and to bills, Friday for the latter, the evening sittings for the former. It need hardly be said that the smaller the share of the time of the House assigned to private members the fiercer will be the competition for a portion of such time: it is obviously necessary that some order of precedence shall be established.

Taking first private members' *bills*, the question presents itself how the order of priority is to be settled in the case of the different measures: there is no single factor able to

in the case of a new parliament the second and third days are also excluded:—

Session.	Government Sittings.				Private Members' Sittings.
	Monday and Thursday.	Tuesday, Wednesday and Friday.	Saturday.	Total.	
1888	63	69	6	138	35
1889	48	56	2	106	33
1890	49	53	4	106	25
1890–1	57	54	1	112	39
1892 (i)	36	32	0	68	39
1893–4	90	118	7	215	31
1894	44	53	3	100	17
1895 (i)	38	38	1	77	29
1895 (ii)	7	9	1	17	0
1896	49	57	2	108	17
1897	51	54	1	106	21
1898	47	55	1	103	17
1899 (i)	46	52	0	98	18
1899 (ii)	3	5	0	8	0
1900 (i)	46	45	0	91	21
1901 (ii)	3	4	1	8	0
1901	45	55	2	102	18
1902 (*a*)	27	29	0	56	13
(*b*)	45	62	0	107	6
1903	45	56	0	101	30
1904	49	61	1	111	29
1905	44	58	0	102	34

(*a*) before, (*b*) after, amendment of standing orders.
In 1906 the Government had 140 sittings private members 33.

exclude all the others as in the case of Government proposals; on the contrary, the principle of equal rights among all competitors has to be admitted. The expedient adopted in the rules is that of lot. On the two first days of the session any member who wishes to introduce a public bill may enter his name upon a numbered list placed on the table of the House for the purpose. On the third day a ballot is taken before the Chairman of Committees or his Deputy of as many numbers as entries made. On the fourth day the members who have joined in the ballot and have given in the titles of the bills they wish to introduce are called upon, in the order in which their numbers on the list have been drawn, and they are then entitled to choose for the second reading debates on their respective bills any dates open to them under the rules. Those whose numbers are first drawn secure, of course, the best places; they can put down their bills as the first subjects for discussion on the various Fridays reserved for private members' bills. By so doing they secure at all events that their bills will be discussed and probably that they will be voted upon. In accordance with their selection their bills are placed at the head of the list on the various Fridays down to Whitsuntide. Those members whose numbers are drawn later have to take second places, *i.e.*, have to give notice of the second reading of their bills as the second subjects for discussion on the Friday sittings, and to put up with a much diminished chance of obtaining a hearing. Those who come far down on the ballot and all members who do not introduce their bills till a subsequent period of the session have to content themselves with giving notice that they intend to present their bills: they have then to wait for the chance of moving the second reading in some of the remaining time left for private members. As may be seen by reference to Part iii of this Book, the time so available is after midnight on a Monday, Tuesday, Wednesday or Thursday, or after 5.30 on a Friday;[1] but, as we shall find later, this does not give a member much hope of any practical discussion of his bill. We can see that the rules give an astonishingly small scope

[1] See Supplementary Chapter.

to the legislative initiative of members, which is postponed almost entirely to that of the Government.

The rules as to precedence thus laid down do not apply to the whole session : they are only operative till Whitsuntide. After that date—so the rules provide—all public bills other than those of the Government are arranged on the order book according to the stage then reached by them, those which are most advanced being first taken. The order is as follows : first come bills which have reached the stage of considering amendments made by the Lords, then bills ready for third reading, then bills to be considered on report as amended, bills in progress in committee, bills appointed for committee, and lastly bills which have not yet been read a second time.

We may now pass to the rules for arranging the precedence of notices of motions by private members. A procedure similar to that used for bills settles priority by means of the ballot. But, from the nature of the case, much greater flexibility is necessary for motions than for bills. It is under the form of motions that expression has to be given to all the needs and aspirations which spring up within the House, and that provision has to be made for sudden and unpremeditated action. Thus the rules (Standing Order 7) lay down that no notice shall be given beyond the period which shall include the four days next following on which notices are entitled to preference. Allowance is to be made for any intervening adjournment of the House, the period in such a case being so far extended as to include four notice days falling during the sitting of the House. The priority of notices of motions for the first four motion days of the session (*i.e.*, for the first fortnight) is determined by a ballot taken at the same time and in the same manner as the ballot for bills. Afterwards a ballot is taken after questions, usually on Tuesdays and Wednesdays. As soon as the Committee of Supply has been constituted a special ballot is taken to determine precedence among the motions which may be made on first going into committee on the various classes of estimates. A member desiring to give notice enters his name on a numbered list in one of the lobbies and papers with corresponding numbers are placed in a box. One of

the officers of the House takes out the papers at hazard, and calls out the numbers of those he draws. The Speaker reads out the corresponding names and the members so named may give notices accordingly.[1] Other members besides those whose names are drawn are at liberty to give notice on the chance of finding an opportunity in the short time available for private members after the close of public business.

The limited space given to private members is liable in certain events to be still more contracted, and the Government's share extended, by virtue of certain privileges granted to the Government by the rules. First, it has long been a practice for the Government, from time to time, to obtain from the House precedence for some particular proposal of theirs, occasionally even securing the whole time of the House for some bill or other measure, *e.g.*, a new set of rules, which they wish to expedite. Then the procedure of "closure by compartments," to be described in Part ix., is a further limitation on non-official members. On the other hand the Government may at any time enlarge their own opportunities by making use of their right to move the suspension of the "Twelve o'clock rule."[2] None of these measures needs more than a bare majority for its adoption.[3]

A consideration of the arrangement we have described leads to an immediate recognition of the great preponderance of the *Government* and their proposals over the private members of the House and their initiative. The preponderance itself and its intensification as the session proceeds show clearly to what extent the House of Commons at the present day regards itself as being primarily a machine for performing the work of governing. We may even go so far as to say

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[1] *Manual*, pp. 40, 41. See further as to the above, and as to the improper use of several names by the same member, the discussion on the 13th February 1902; *Parliamentary Debates* (102), 1271.

[2] Now eleven o'clock: see Supplementary Chapter.

[3] To take an instance from the session of 1902. On the 16th October 1902, Mr. A. J. Balfour, as Leader of the House, moved, "That for the remainder of the session, Government business do have precedence at every sitting and at the conclusion of Government business on each day Mr. Speaker do adjourn the House without question put." The motion led to a heated debate, to which the Irish members were the chief contributors, but it was finally passed by a large majority. (*Parliamentary Debates* (113), 28–97.)

that the new provisions in the rules of the House of Commons as to the arrangement of its work express a change in the character of the House itself. From being originally a deliberative assembly, co-operating with the Government of the sovereign by means of its decisions, it has itself become a *Government* in the sense of being an organ of the state with the capacity and duty of providing for the speedy and well-timed despatch of certain state business.[1]

The preponderance of the Government, its precedence within the walls of the House of Commons, as expressed in the modern order of business, is only a special application to the course and management of the work of the House of a general principle affecting the whole constitution of the country—the principle of parliamentary party government by means of a cabinet.[2] It is for this reason that the precedence of the Government in the House is by no means confined to the particular rights given by the rules just quoted: the position of the Government is quite a special institution of modern days, a growth of parliamentary usage; it has effects transcending the legally prescribed privileges of the Ministry, influencing the whole conduct of the House, what it does and what it leaves undone, and pervading the entire sphere of parliamentary life. The political importance of the institution can indeed only be realised when it is considered as a part of the whole system of parliamentary government which is the foundation of the politics and constitution of Great Britain. But here we must emphasise one point—that it is

[1] This statement is open to much misconstruction if Government and Parliament are understood in the sense of the Continental theories of constitutional law. I therefore refer my readers once more to the explanations given above as to the relations between Government and Parliament in England as finally settled during the nineteenth century: the relation finds very characteristic expression in the order of business of the House of Commons; but the procedure of the House is not the only place in which it comes to the surface.

[2] The preference given to ministers by the order of business is, of course, only looked upon as a position of *duty;* it is conceded to *members who are conducting the business of state,* not to the servants of the Crown as such. This view was laid down by Sir William Harcourt during the great procedure debates of 1887. "There is nothing more fundamental than that the Government are not regarded, for the purpose of the rules of this House, as something apart from the rest of the House, except so far as particular duties are given to them." (*Hansard* (311), 1000.)

embodied and recognised in a conception, which only took shape during the nineteenth century, that the Ministry possess what is called the *leadership of the House*.[1] "Leader of the House" is the technical description of the chief minister of the Crown for the time being in the House of Commons; it expresses accurately and clearly the peculiar position of the Government on the floor of the House. The Prime Minister, if he is a commoner, or, if he is a peer, the First Lord of the Treasury or the Chancellor of the Exchequer, is Leader of the House of Commons and exercises the functions of that post as if they belonged to the Government: they are indissolubly united to the position of the chief minister in the House of Commons, but must be treated as unique and independent *parliamentary* rights.

Let us now briefly indicate the influence directly exercised by the Leader of the House on the course of business. It is his task in the name of the Government and the party in office to distribute over the session the programme of legislation announced in the King's speech and to advocate it in the House. He assumes the duty of proposing all such motions concerning the *agenda* of the House as are deemed advisable by the Government, and is their spokesman in the debate thereon. With regard to every Government project the Leader is the final authority as to its general progress, as to the time to be given to its different stages, and as to any application of the closure or other available method of shortening debate and bringing matters to a conclusion. The whole policy of the Government, especially so far as it is expressed in the inner life of the House and in measures dealing with the course of its business, is concentrated in his person. At the proper moment, prescribed by the rules, before the commencement of public business, the Leader of the House makes statements as to the future programme of the Government, and therefore of the House: in particular he gives notice, or possibly suggests, what heads of the estimates are to be taken. Any suspension of standing orders or motion for an alteration

[1] In 1887 Mr. Parnell said, "Of late years the Leader of the Government has come, by common consent, to be called Leader of the House." (*Hansard* (311), 1008.)

in them is invariably introduced and advocated by the Leader.[1]

He exercises his functions as *chief of the majority party* and as chief minister of the Crown ; but a peculiar character attaches to them in certain cases : the Leader—in spite of his position according to Continental ideas, but according to English ideas just because of it—acts at times as the spokesman and representative of the *whole House*. The chief occasions of his so doing are those of ceremony, when the House as a whole desires to define its position towards some external body, as for instance in the case of a conflict with the House of Lords, or of some breach of the privileges of the House of Commons, or when it is desired to give expression to the feelings of the Commons on some event of importance in home or foreign affairs.

In all his activities in every direction the Leader of the House has to act as leader of his party, to bring tact and political sagacity to bear upon all the currents in its midst, to harmonise the needs of the party as a whole and the special demands of the groups and individual members who

[1] As an example of the way in which the duty of leading the House is performed by the Prime Minister, we may take the following extract from the report of the sitting of the 19th March 1903. Before public business came on, the temporary Leader of the Opposition, Mr. Bryce, addressed the following request to the Prime Minister :—"I should like to ask the First Lord if he can give me an indication what bills it is proposed to take on Monday and Tuesday next, if there is time ; and when the House will rise for the Easter recess." Mr. Balfour replied, "As the House knows, it is proposed on Monday afternoon to take the report of the Navy votes A and 1 and votes 13 and 15. I do not think it is very likely that on that afternoon much leisure will remain for legislation. In the evening it is proposed to take the report of the vote on account ; also the report of ways and means, and the first reading of the Consolidated Fund bill. I do not think much else can be done. On Tuesday afternoon the second reading of the Consolidated Fund bill will be taken. Any question may be raised on that, and I do not think much time will be left for legislation on Tuesday afternoon. On Wednesday afternoon it is proposed to take the committee stage of the Consolidated Fund bill. On that no debate can take place, and it is proposed to allocate that afternoon to the introduction of the Irish Land bill. On Thursday the third reading of the Consolidated Fund bill will be taken at the afternoon sitting, and, after that, Supply. As to Supply, I should like to know what votes honourable gentlemen would like brought on. On Thursday there can be no question of legislation : it is a supply day." (*Parliamentary Debates* (119), 1232, 1233.)

compose it with the policy which the cabinet has in contemplation. But we must not dwell too long on what he has to do : nor on the fact that opposite to him in the House sits his counterpart, endowed by usage with almost exactly similar functions, the recognised Leader of the Opposition. He is the official spokesman of the minority, and both tradition and political prudence bid the Leader of the House, the Prime Minister, endeavour to make arrangements with him as to any question of the course of business or of procedure.

The conduct of business in the House still ultimately depends, more or less, upon the goodwill of the whole House, though, of course, the decision of the majority represents the element of compulsion which gives the rules their sanction. From the time when the order of business in Parliament became in the main an apparatus at the disposal of the Government, its application has been an important branch of the art of ruling, and therefore an integral part of that for which the Government is politically responsible. Here we have the reason why the minister who leads the House has to regard himself not only as a party leader but at times as one who conducts the business of the House as a whole, and is bound in that capacity to exercise self-denial in the assertion of the special interests of his party and his Government. He is morally bound, in settling the order of the different subjects before the House and distributing them over the time at its disposal, to display "fairness" to the Opposition. The most striking instance of his duty towards them is that when the Leader of the Opposition gives notice of a motion of censure the Leader of the House is expected to find a Government sitting within a reasonable time for the discussion of the motion. The great powers given to Government by modern procedure are not intended to reduce the Opposition to silence.[1]

The two leaderships are the product of a carefully-devised

[1] Thus Mr. Gladstone said, in the sitting of the 24th October 1882, "There is an established tradition in this House, that whenever a large number of members desire to raise a question touching the existence or policy of the Government, an opportunity should be given them for that purpose." (*Hansard* (274), 66.)

and unique organisation of English political life, unknown to previous centuries and even yet foreign to Continental parliaments. They are among the most characteristic phenomena in modern English parliamentary government, and their significance extends far beyond what we are for the moment studying, the procedure of the House of Commons : indeed they go far, when understood, to throw light upon the innermost meaning of English politics. We have alluded to this in several other places, and in particular have referred to its connection with the social character of the House.

CHAPTER III

Order of Proceedings at Individual Sittings

THE arrangements described in the last chapter for dividing the sittings between Government and private members and for securing the due disposal of the substantive business of the House are the framework on which the whole course of business is built up. But it requires support of another and no less important kind. There must be *a permanent time table for each sitting, providing for the consideration of certain parliamentary affairs which are of constant recurrence.* Let us explain our meaning a little more in detail. The House of Commons, more than any other parliamentary body, is under the necessity of transacting at each sitting a number of formal items of business, without which the whole movement of its work would be brought to an end. Among these are the matters which German parliaments, borrowing a phrase from the language of officialdom, call the *Einlauf*, and which may, less expressively, be called in English *routine business*. Part, *e.g.*, requests by members for leave of absence, announcements from the chair, reports as to writs issued, and the like, has its source within the House itself : another part, *e.g.*, presentation of petitions, comes from the outside. The House of Commons has, too, the special and highly important task of getting through the business of private bill legislation — business which, as we have seen, generally receives but little attention from the House as a whole, where it is almost always treated as a passing matter to be dealt with as a pure formality. The very fact that private acts of parliament are a peculiar blend of administrative decrees with quasi-judicial decisions in contentious matters of an administrative character, cast into the form of laws, renders it imperative that private business should receive the steady and methodical treatment which all administration needs. On the other hand, there is

a danger lest this routine business should be utilised to postpone and interfere with the real object of Parliament, the disposal of its substantive business.

It must be borne in mind that the distribution of sittings under Standing Order 4 secures at each sitting that Government business or private members' business, as the case may be, is to have priority. It does not provide that such business is to take up the whole time of the sitting. Whatever arrangements are made as to substantive business, the formal business of each day must also be done daily. To meet this requisite and to escape the danger indicated the rules provide comprehensively that the public business, *i.e.*, the orders of the day or notices of motions, must always be begun at a fixed hour. Since the division of the day's work into morning and evening sittings was made the private business of the House and the other constantly recurring business have had to be taken at the afternoon sitting.[1] The rules further lay down that by 3 p.m., one hour after the beginning of the sitting, the whole of the private business and routine business must be finished. At this hour the "order of the day" must begin, and there is no way, short of suspension of the standing orders, by which any postponement can be obtained. The discussion of the orders of the day is interrupted at 7.30 p.m. but upon the House's meeting again it has to be continued till midnight, the second prescribed time of interruption. There still remains one hour till 1 a.m., the last section of the sitting, and during this period only such orders of the day as are unopposed can be dealt with.

The working day is thus divided into three parts, the first and last of which are reserved for routine business and unopposed bills or motions : all the rest of the sitting is devoted to the substantive work of the House, *i.e.*, practically speaking to the various orders of the day. It remains for us to make ourselves acquainted with the details of the fixed order of proceedings, which is the same from day to day.

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[1] See Supplementary Chapter. The abolition of double sittings and the alteration of times have changed many details of the arrangements, but have introduced no new principle.

After prayers have been read by the chaplain the Speaker opens the sitting and business is taken in the following order :—

1. Private business ;
2. Presentation of petitions, if presented orally ;
3. Motions for unopposed returns ;
4. Motions for leave of absence ;
5. Notices of motions ;
6. Questions ;
7. Motions, &c., at the commencement of public business.

And then follow the orders of the day and notices of motions, as specified in the notice paper.

We will now add what remains to be said as to the different heads in this arrangement.

The first is private business. As we have seen, the stages of private bills which are gone through in the House proper are generally mere formalities. There are exceptional cases, but as a rule all that happens in the House is that the Clerk at the table reads out a list, prepared for him in the Private Bill office, of the private bills appointed for the day's sitting, and then a further list of the provisional order bills, bills confirming orders of an administrative nature made by various ministers in charge of departments of state. On the name of each private bill or provisional order bill being called out, for first, second or third reading, as the case may be, a member rises and moves that the desired step be taken. If no opposition is shown the further procedure takes its regular course, the House not troubling itself with the contents of the bill, but leaving all details to the select committees and officers charged with the management of private bill legislation. If there is any opposition the bill stands over to the next sitting, when it is again placed on the *agenda*. The same course is adopted when the member in charge of a bill does not attend, so that upon the name of the bill being read nobody appears to advocate its acceptance.

The whole of the private business is generally run through with as much rapidity as compliance with formalities will allow and there are seldom any members in attendance

except those who have charge of the particular business which is to be transacted.

When private business is over the second section of the work to be done before the transaction of public business is entered upon—the presentation of petitions. All that need be said as to petitions may be found in a previous chapter.[1] In any event a member who wishes to enlighten the House orally as to a petition must do so before public business begins.[2]

Petitions having been disposed of, the time comes for a particular class of motions, those for returns from Government departments. Such motions require notice, and must therefore be placed upon the paper. They are subject to a further limitation, being only admissible at this stage of the proceedings when the mover has obtained the previous consent of the minister in charge of the department concerned. Without his consent the motion is irregular: even if he has at first given his consent he may oppose the motion at the sitting, and then it loses its special position, and has to take its place among other notices of motions. Motions thus proposed are therefore pure formalities; they only serve the purpose of enabling members to obtain such information as the minister who has it to give is willing to furnish.

The next business is by no means formal, but, on the contrary, is of the highest material and political importance; it is the asking and answering of questions. As to the nature of this form of parliamentary action, it is only necessary to refer to our previous discussion; we shall here only add a few words as to the manner in which questions are dealt with. On days when there are two sittings, the time at which they are to be taken is 2.15 p.m.,[3] and none may be asked after 2.55 p.m.,[4] except questions left unanswered in consequence of the absence of the minister to whom they are addressed, and questions which have not appeared on

[1] See *supra*, vol. ii., pp. 241 *sqq*.

[2] In 1904 there were 12,558 petitions addressed to the House; only 125 were printed. (*Parliamentary Debates* (140), p. cxxxix.)

[3] Now 3 p.m., or possibly earlier: see Supplementary Chapter.

[4] Now 3.45 p.m.

the paper, but are of an urgent character, and relate either to matters of public importance or to the arrangement of business.

In the short time allowed it would scarcely be possible to dispose of all the questions, often numbering more than a hundred, had not a special device been provided by the rules. Any member who desires an oral answer to his question must distinguish it by an asterisk. Notice of any such question must appear at latest on the notice paper circulated on the day before an answer is desired. In the following cases a minister to whom a question is addressed is entitled to have his answer printed and circulated with the votes and proceedings on the following day :—(1) if a member does not claim an oral answer ; (2) if the member asking the question is not present, either personally or by deputy, to ask it when called upon ; (3) if the question is not reached before 2.55 p.m.[1]

As soon as question time begins the Speaker calls in order upon each member who has given notice of a question. The member has then to rise and, by reference to the number of his question, to put it to the minister. When all questions for which oral answers have been bespoken have been put, the Speaker may, if time permits, allow a question which has been passed over, because of the absence of the member who has set it down, to be called a second time. No question may be asked except by the member in whose name it stands or by someone deputed by him ; but a minister is always entitled to answer a question on the paper even though it is not formally asked, and one minister is allowed to answer for another.[2] Debate upon an answer given is absolutely forbidden : answers must be taken "for better, for worse," was a recent ruling of the Speaker. Even the making of a few remarks by way of commentary on an answer is out of order. It is, however, permissible to ask what are called supplementary questions, but not so as to produce what amounts to a cross-examination, and the

[1] Now 3.45 p.m.

[2] See the Speaker's ruling, *Parliamentary Debates* (126), 321 : "It is quite common and regular for one minister to answer a question on behalf of another minister."

minister so interrogated may refuse to answer, as indeed he may in the case of any question.[1]

When question time is over, the last stage of business prior to the orders of the day or notices of motions begins —that of "motions, &c. at the commencement of public business." It comprises (1) motions in the name of a minister of the Crown relating to the business or arrangements of the House; (2) motions for leave to bring in bills and for the nomination of select committees. A motion under the second head is not allowed to occupy much time, and if it is opposed the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from a member who opposes the motion, may, without further debate, put the question thereon, or the question that the debate be adjourned. Such motions are popularly said to be made under the "ten minutes rule."

This stage is, further, the proper one for a motion by a minister for a vote of thanks, such as is passed on important occasions. Government motions as to the arrangement of business always come here.

Lastly, an "urgency motion" has to be brought forward at this time. As above stated such a motion is not moved or discussed at an afternoon sitting, but at the subsequent evening sitting, at which, however, it takes precedence of everything previously set down. An urgency motion therefore brings about a real postponement or exclusion of the matters assigned to a sitting. It is the only case in which such a displacement is permitted by the modern rules. But as, under the rules stated in Part vii, a motion of this nature is subject to very stringent conditions, its exceptional character is always maintained. The whole tendency of the rules, as may now be clearly seen, is to brand an urgency motion as a kind of breach in the permanent system of order laid down by the House. For that reason vexatious or frequent resort to such an expedient would contradict the whole arrangement of the life of the House and is therefore impossible.

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[1] *Parliamentary Debates*, (106) 926, 1173, (114) 1037, (101) 636, &c. Urgency motions now stand over to 8.15 p.m.

And now—at three o'clock[1]—comes the moment for the House to proceed to its "public business," *i.e.*, on Government days to the consideration of the proposals of the Government. As soon as the matters which have precedence over the orders of the day are disposed of, the Speaker directs the Clerk at the table to read the orders of the day, without any question being put or debate raised. None of the methods by which it was possible in former days to prevent the Government's business being brought forward are now available : the present shape of Standing Orders 12 and 13 gives no opportunity for any of them. And it is equally impossible to interpose any fresh subject of debate among the orders of the day, *i.e.*, during the time when the House is engaged upon its substantive business, or on the reading of an order to move the adjournment of the House. It is only a member of the Government who, in the event of an adjournment being necessary, has the right to make a motion to that end.[2]

At the sittings assigned to private members the end of the routine business is followed by notices of motions instead of by orders of the day. The notices of motion are the substantive business for private members' sittings ; not until they are disposed of does the time come for dealing with the orders of the day, that is to say, practically for Government business. In point of fact Government business, unless it is opposed, is practically not reached on notice days : if the notices of motions are exhausted the House is sure to be very thin and is adjourned.

The following principles apply to the treatment of orders of the day. No subject matter which has been made an order of the day for any fixed date may be brought forward before that day. When an order of the day has once been read there are only three courses which can be taken : the

[1] Now 4 p.m., or possibly earlier if questions have been disposed of.

[2] *May*, "Parliamentary Practice," p. 261 ; *Manual* (1896), p. 113. At one time the rules allowed a motion for giving priority to some motion of which notice had been given, or to some particular order of the day. The present rules forbid both this and another practice, formerly permitted, that of moving amendments to the question that a certain order of the day be read. See the passage in *May* above referred to, and the references to the journals there given.

order in question—motion or bill—must be proceeded with, appointed for a future day or discharged, *i.e.*, struck out of the House's programme altogether:[1] in the last case an order needs a special motion before it can be replaced in the paper. Orders of the day which by reason of the close of a sitting or the adjournment of the House have not been reached, the discussion of which, therefore, has not been entered upon, stand over to the next sitting and are placed after the *agenda* arranged for the same, as an appendix to it.[2] But in such an event the Government may, on Government days, use their right to rearrange their business and give the postponed orders any precedence which they wish. The principle of postponing all unreached orders to the end of the next sitting is applied as between afternoon and evening sittings of the same day.[3] Business which was set down for a point beyond that reached at the morning sitting stands over automatically to the evening. All orders still undisposed of in the evening at the time of interruption, viz., midnight (and the procedure is the same on a Friday at 5.30), are read out in succession by the Clerk at the table; and as each is named the Speaker calls upon the member in charge of the bill or motion. If the order is unopposed or is "exempted business" it is entered upon. In any other case the Speaker at once asks the mover to name the sitting upon which his business is again to be placed on the *agenda*. He has an unrestricted choice and no debate is permissible. At times the member gives previous notice of the date in writing to the Clerk, and the latter communicates his wish to the House. If no date is fixed the order is said to be "dropped"; nothing more can be done with it until, upon motion after notice, an order is made to revive it; such a motion has to be proposed at the commencement of public business. If indeed the order is one of an urgent character, and it is thought desirable to reinstate it for the next sitting,

[1] The right of moving any particular order of the day is not confined to the members who are in charge of it. The business has been placed upon the paper by order of the House, and any member is at liberty to introduce it: the practice is therefore different from that which governs motions.

[2] Standing Order 1.

[3] See Supplementary Chapter.

the only course is for a minister of the Crown to move what is proposed: in such a case the order is placed upon the notice paper for the next sitting but is printed in italics, to indicate that its position is subject to formal confirmation by the House.

We are now in a position to understand certain supplementary remarks in relation to orders of the day which are of the nature of public business, though not Government measures, inasmuch as they are due to the initiative of private members. We have seen what are the rules for placing private members' bills and shall remember that such of them as are not fortunate enough in the ballot at the opening of the session to gain early places at the Friday sittings are relegated to the periods after midnight on Mondays, Tuesdays, Wednesdays and Thursdays, or after 5.30 on Fridays. On Government days a private member's bill may be placed among the orders of the day; but, unless the Government come to the help of the member in charge and under their powers of arranging business give his bill an early place, there can be no counting upon its coming before the House till after midnight.[1] With Government help the order of the day may be reached before the interruption and, in the absence of serious opposition, it has then a fair chance of being brought to an issue: but after midnight only unopposed business can be taken. Objection by a single member is enough to make any matter "opposed."[2]

In practice a private member's bill is almost always opposed by some member on the other side of the House. It stands to reason that, even without party antagonism being taken into account, an assembly of several hundred members is nearly sure to contain at least one opponent of any given proposal, sufficiently in earnest to prevent its passage by so simple a procedure as merely objecting. Such action goes by the name of "blocking," and, except in rare cases, when the sponsor of a bill has been able to gain unanimous support, is mercilessly put in force against all private members' bills.

[1] The Government has power to take such a step under its general right, given by Standing Order 5, "to arrange the business."

[2] The times given in this paragraph and the next are now altered: see Supplementary Chapter.

Of course, the member in charge always fixes a new date in the hope of finding the House better disposed, and so it comes about that the orders of the day almost always include a long list of subjects foredoomed to be blocked after midnight and thus deprived night after night for the whole session of all chance of being considered by the House on their merits.

As we have already seen, the result is of considerable political and constitutional importance: a year's work produces but a trifling number of acts of parliament due to the initiative of members not belonging to the Government. Very few bills are successful unless they are lucky enough at the beginning of the session to gain "places in the sun" by favour of the ballot, *i.e.*, are able to be taken as first orders on a Friday.

It is necessary, finally, to refer to one principle which is of vital importance to the course of business and to the whole procedure of the House. *A motion or bill on which the House has given a decision may not be brought before the House again in the same session.*[1] The rule is of great importance from a constitutional standpoint. It protects the judgment of the House on any point from being attacked in the same session as that in which it is given, and thus provides for some amount of stability in legislation. To a certain extent it is analogous to the rule of law which prevents *res judicatæ* from being tried over again. Of course, it only covers one session, a limitation which is but reasonable. In the constant flux of a nation's life the conditions which call for legislative action are always changing: each session, each year, has, more or less, its own problems to solve.

The rule has important practical results in the not impossible event of its being absolutely necessary to reconsider some decision at which the House has arrived. If the decision is positive in form the rule causes no difficulty: the direct negative (a motion to rescind) is technically a "new matter." If the decision is negative in form the rule is sometimes evaded by allowing a motion to be proposed identical in result with what was previously rejected but

[1] *May*, "Parliamentary Practice," pp. 300 *sqq.*

sufficiently different in form to allow of its being treated as something new.

Literal adherence to the rule in the case of bills would be intolerable. It is therefore only applied subject to the proviso that the discussion of a bill in all its stages is to be looked upon as a single act: it is accordingly allowable to raise the same question more than once during the discussion of a bill; but during each stage the rule applies. Thus, amendments involving the acceptance of a principle negatived upon second reading may be moved in committee. Of course, the rule applies in full force to a bill as a whole: after the House has given its decision upon a bill, no other bill of the same purport may be introduced, though exceptions have occasionally been made.[1] In some very important cases, when the Government has determined upon the reintroduction of a bill, the only course open has been to prorogue Parliament for a short time, and thus to obtain a new session in which the technical difficulty does not arise. The last instance of resorting to such an expedient occurred in 1831, when the Reform Bill rejected by the House of Lords was once more proposed in the House of Commons after a short prorogation.

HISTORICAL NOTE

The principle of strict adherence to a previously arranged programme has sprung from the needs of the modern system of parliamentary government. Its growth has been fully traced in Book I, Part ii. A few strokes will be sufficient for a sketch of the earlier forms of procedure so far as they relate to our immediate subject and have not already been described.

Originally the Chancellor's speech was the simple framework for the action of the House of Commons. When, however, the legislative importance of the Commons' petitions increased, and the House began to insist upon their being granted before the King's wishes were complied with, the arrangement of the order of succession of the subjects for discussion became more and more a matter of purely internal concern. We have

[1] The principle last referred to is undoubtedly a very old one in parliamentary law: it is fully recognised in the resolution of the 2nd April 1604: "That a question being once made and carried in the affirmative or negative cannot be questioned again, but must stand as a judgment of the House" (*House of Commons Journals*, vol. i., p. 162). The rule as applied to bills dates back to the 1st June 1610: "That no bill of the same substance be brought in the same session" (*House of Commons Journals*, vol. i., p. 434).

evidence of the early establishment of this conception in the antiquity of the custom of deferring the consideration of the King's speech till a bill, prepared in the House itself, had been read as an assertion of right: such was, in the sixteenth century, an old-established and undisputed privilege of the House of Commons. As we have seen, in the Tudor parliaments the sovereigns obtained great influence on the course of business in the House, partly direct, by declaring in particular cases that the subject of discussion was unwelcome, or even inadmissible, but mainly indirect, through the action of the Speaker, who was then an instrument of the Court, a somewhat subordinate member of the royal Government. There was, even then, no doubt as to the legal answer to the question how and by whom the deliberations of the House ought to be arranged. Hooker is perfectly clear on the subject. The Speaker's office, he says, "is to direct and guide that House in good order, and to see the ordinances, usages and customs of the same to be firmly kept and observed. . . . All bills to be brought and to be presented unto that House, he must receive and deliver unto the Clerk. . . . Of the bills brought in, he hath choice which and when they shall be read, unless order be taken by the whole House in that behalf."[1]

A constant system of arrangement of the business of the House was the more necessary in that it was one of the most ancient principles of the House that all members had an equal and unfettered right of initiative. The House expressly declared on the 25th of March, 1606, "that any member of the House might put in a bill."[2]

A series of decisions of the House down to the breaking up of the Long Parliament show clearly that in the seventeenth century the Speaker had the chief share in arranging the work to be done. On the 9th of May 1642 it was ordered "that Mr. Speaker shall, every morning, presently after prayers, before any other business be moved, acquaint the House with the orders of the day."[3] He has to put the House in mind of the orders which are to be read, and of the bills which are to be discussed.[4] Again, he is to remind the House of its order to resolve itself into committee at a certain hour and to interrupt any business then pending.[5] It is his duty to prevent the business of Parliament from getting disorganised.

The arrangement of the course of business as it existed in the second half of the seventeenth century is minutely delineated in Hakewel's little book "The manner how statutes are enacted in Parliament by passing of bills" (1670). We read there "Public bills are in due course to be preferred in reading and passing before private: and of public, such as concern the service of God and good of the church. Secondly, such as concern the commonwealth, in which are included such as touch the person, revenue, or household of the King, Queen or Prince, and they ought specially to be preferred in passing. Lastly, private bills should be offered to be read and passed in such order as they were preferred. There hath been often times orders in the House that after nine of the clock, when usually the House groweth to be full, they should not be troubled

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[1] *Mountmorres*, vol. i., pp. 115, 117.
[2] *House of Commons Journals*, vol. i., p. 288.
[3] *Ibid*, vol. ii., p. 565.
[4] *Ibid.*, vol. i., pp. 894, 904; vol. ii., p. 119.
[5] *Ibid.*, vol. ii., p. 204.

with the reading of any private bill; and toward the end of the Parliament, when there remaineth many bills in the House undespatched, there have been a special committee appointed to take a survey of them, and to marshal them by their titles in such order as they should think fit; they should be preferred to their passage, having respect to the importance of the matter which they concern."[1] Hakewel refers to the rules laid down in the ancient *Modus tenendi parliamentum* and adds, "But the Speaker is not precisely bound to any of these rules for the preferring of bills to be read or passed, but is left to his own good discretion (except he shall be especially directed by the House to the contrary), and howsoever he be earnestly pressed by the House for the reading of some one bill, yet if he have not had convenient time to read the same over, and to make a breviat thereof for his memory, the Speaker doth claim a priviledge to defer the reading thereof to some other time." He also gives precise information as to the way in which the House divided its time: "The usual course is to spend the morning before the House grow full in the first readings, and to defer the second or third reading till the House grow full."[2]

As time went on the orders of the House as to its business became more detailed. The Speaker received directions (in 1645), that he "do every morning present, the first business, such matters as are depending and are matters of course; to the end such may be despatched."[3] In 1679 the Notice paper had its origin. It was ordered, "that the orders and proceedings of this House, after they are read every morning, be entred into the journal the same day."[4] The regulations as to the time of day at which work is to be done begin very early. Thus on the 14th of February 1606–7 an order was made "that the House shall assemble every day at eight o'clock, and enter into business at nine."[5] In 1614 there was an order "that the Clerk shall set upon the House door the orders for committees to sit that day."[6] The usual time for closing was twelve o'clock, and therefore there were frequent orders against introducing business at a later hour.[7] Towards the end of the seventeenth century the time of the sittings began to grow later, and it became quite customary to move for leave to introduce motions or bills after the regular hour for rising.[8] In 1690 one o'clock was fixed for the end of public business. About the same time an effort was made to fix the time of beginning the real business of the House. In March 1698-9 it was ordered that the orders of the day were always to be read at noon.[9] In 1667 there seem to have been great complaints of the slow progress with business: on the 16th of October the Commons appointed a committee "to consider what

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[1] Pp. 134–137.

[2] *Hakewel*, p. 139.

[3] *House of Commons Journals*, vol. iv., p. 102.

[4] *Ibid.*, vol. ix., p. 579.

[5] *Parry*, p. 254.

[6] *Ibid.*, p. 265.

[7] *House of Commons Journals*, vol. ii., p. 493; vol. iv., pp. 152, 426.

[8] As early as 1668 the order to the sheriffs of Westminster and Middlesex to keep free access to parliament gives 8 a.m. to 2 p.m. as the time of sitting. (*House of Commons Journals*, vol. ix., p. 45.)

[9] *House of Commons Journals*, vol. xii., p. 586.

doth obstruct the proceedings of the public business of the House, and what the ancient use and practice of the House hath been for despatch of public business."[1]

In very early times we find special rules as to dealing with private bills. At first separate sittings were held for the purpose: thus on the 9th of May 1571 it was resolved "that on Friday next the House do sit at three o'clock p.m., and continue till five, and so every Monday, Wednesday and Friday, until the end of the session; the time being employed only in the first reading of private bills."[2] But after a time the practice was abandoned, and it was found preferable to dispose of private bills at the beginning of the sitting. Such is the inference from an order of 1761, directing that no private bills were to be brought in after two o'clock:[3] by that time two p.m. had come to be the time of beginning the sitting.

The foregoing references show the arrangements essentially in the shape which survived till the beginning of the nineteenth century. The House acted upon motions proposed by individual members in deciding what bills or resolutions were to be made orders of the day and thus placed upon the programme of business: the further course of discussion was decided by votes of the whole House. From the time of the Long Parliament such orders were all entered in the order book which was in charge of the Clerk, and thus gave the Speaker complete oversight over the course of business. Neither then nor at any time is there a trace of ministers, as such, having special rights of introducing bills or motions: such a notion, indeed, would contradict the fundamental ideas of the English constitution. It was only as elected members of the House that ministers were allowed to appear there, to take action and to obtain any influence on the programme of business: and the same is still true. It was far into the second half of the eighteenth century before parliamentary procedure took any special note of Government in arranging the work.[4] But it is not difficult to trace the decline of the Speaker's influence upon the course of business from the Revolution onwards—it was a natural consequence of the growth of the conception of his impartiality: on the other hand we can follow the rise of the influence of the Government caused by the exigencies of party politics. The development took place without help from express decisions of the House: it was one of the results of the Ministry having become, from the time of the accession of the Hanoverian dynasty, the leaders of a constant majority in the House of Commons; the group of members of parliament which they represented had in its hands all the real power of the House, as well in respect of the order in which business should be done as of all other parliamentary matters. About the middle of the eighteenth century the House appears to have begun to feel the need of some more efficient method of grappling with its load of work and of some greater security for the carrying out

[1] *Parry*, p. 555; *House of Commons Journals*, vol. ix., p. 4.

[2] *Ibid.*, p. 221. A like resolution on 6th June 1572, *ibid.*, 223.

[3] *House of Commons Journals*, vol. xxix., p. 63.

[4] The occasional appointment of a special committee "for regulating business," which we find now and then in the seventeenth century (*e.g.*, "Commons Debates, 1625," ed. by *Gardiner*, p. 11) seems to have been abandoned in the parliaments subsequent to the Restoration.

of its programme. For in the last quarter of that century we find giving notice of important motions to have become a fixed custom, though the length of notice required was left quite indefinite.[1] About the turn of the century Speaker Abbot declared notice of motion to be an obligatory procedure.[2] In 1861 Speaker Denison found it necessary to make the rule more stringent.[3]

A new principle of arrangement came in with the division of sittings into order days and notice days, *i.e.* days when subjects ordered for discussion have priority and days when motions have the first place. From the end of the eighteenth century Monday and Friday were taken as order days, by usage. In 1835 Wednesday was added as a supply day. The practice of reserving two—afterwards three—of these order days every week for Government, "by courtesy of the House" has been previously referred to. As early as 1853 the Speaker laid down as a rule that "Government bills have precedence on Mondays and Fridays by ancient usage. Government orders are entitled to precedence whenever the House has decided that orders of the day shall have priority over notices of motion on other days than Mondays and Fridays."[4]

The increasing impediments to freedom of action by private members were strenuously resisted: new restrictions were evaded by the invention of new forms of initiative; formal amendments and formal motions for adjournment were resorted to and for a time prevented the tendency having its full effect. An account of the struggle will be found in Book I.

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[1] See, for example, *Parliamentary History* (1780), vol. xxi., 148, 885, 888. In the last-mentioned passage we read: "Mr. Coke rose to make the motion of which he had given notice." Notice, at all events for the more important motions, undoubtedly goes some years further back.

[2] See *supra*, vol. i., p. 70, note.

[3] *Denison*, "Notes from my Journal," p. 101. From the middle of the nineteenth century a limit of fourteen days has been placed upon the length of notice. *May*, "Parliamentary Practice," p. 238.

[4] "Decisions of the Right Hon. Speaker Shaw Lefevre," p. 287.

PART IX

Order in Speaking and in Debate

CHAPTER I

Freedom of Speech[1]

FROM the point of view of theory parliamentary bodies are will-forming organs, capable, either independently or in association with other organs of a like function, of formulating what is to be regarded as the will of the state. The object of parliamentary action is therefore the formation of a collective will. It is only, of course, under certain conditions that such solemn acts of volition can constitutionally acquire legal force. The assembly, the body itself, must have been called together in a prescribed way; it must, as a rule, have met in a prescribed place; all the forms and rules laid down by parliamentary law must have been observed; all proper stages must have been passed through with the intervals required by law. But above and beyond the element of adherence to form, more or less strict, there is a further requirement, bringing into the proceedings freedom and elasticity, namely, *speech*.

Without speech the various forms and institutions of parliamentary machinery are destitute of importance and meaning. Speech unites them into an organic whole and gives to parliamentary action self-consciousness and purpose. By speech and reply expression and reality are given to all the individualities and political forces brought by popular election into the representative assembly. Speaking alone can interpret and bring out the constitutional aims for which the activity of parliament is set in motion, whether they are those of the Government or those which are formed

[1] See *May*, "Parliamentary Practice," pp. 96–102; *Seidler*, "Die Immunität der Mitglieder der Vertretungskörper," Vienna, 1891, pp. 1–11.

in the midst of the representative assembly. It is in the clash of speech upon speech that national aspirations and public opinion influence these aims, reinforce or counteract their strength. Whatever may be the constitutional and political powers of a parliament, government by means of a parliament is bound to trust to speech for its driving power, to use it as the main form of its action. "Parliamentary government is government by talking," once pithily said an English politician. In the difference of place occupied by speaking in a nation governed by authority and in one which enjoys representative self-government we have not merely an outward distinction, but a sign of the deepest inward divergence. In the one case *command* is the essence and foundation of the action of the state; in the other it is the *concurrence of the governed*, or at least of the majority of them, in what is actually done, reached by one of the many methods which the principle of representation renders available. In all modern civilised states one of the main ends served by parliaments is the public establishment of this concurrence, and a parliament, as its name implies, is an institution for public speaking. Side by side with Parliament and of equal importance are other instruments of spoken and written persuasion: associations, meetings, the press, all the forms of expressing public opinion, are vital factors in a proper system of parliamentary government. But it is on the floor of Parliament that the results of their activity show themselves in a constitutionally significant shape: here alone does speech pass beyond being an expression of the current of public opinion into a legally recognised element in the formation of a state will. In different parliamentary assemblies the actual importance and effect of the spoken word may vary considerably, but there is one common characteristic of all modern "constitutional" systems of government: the executive are bound, in the most important functions of the state, to put into words, to formulate in speech, what they intend to do; they must always be ready to defend their conduct and actions by word of mouth; and, further, in all such systems the only constitutional form of ascertaining the will of the state as to legislation is that of going through a process of speech and reply in parliament so as

to discover what most nearly corresponds to the wish of all. It matters nothing that the preliminaries to the formation of the parliamentary will, whether they proceed from the Government or not, are expressed in written or printed form, or even that they must be so expressed. Nowhere is this clearer than in the House of Commons, to which the foregoing remarks especially apply, though there is ample justification for the generality with which they have been stated. In the House of Commons it used to be treated as a matter of principle that only what is orally laid before the House is in its possession. Hence the rule that every order of the day, and everything which is to claim the attention of the House, must be read, *i.e.*, orally communicated to it, before being taken into consideration. Hence also the demand formerly made by the House, though now relaxed, that its permission shall be asked for the introduction of bills. In theory what is proposed ought to be made known to the House word for word; but there is not at the present day any necessity for such information, nor would it be possible practically to supply it.

Speech is therefore the element which gives life and power of action to a parliamentary body as air does to the natural body; pursuing the metaphor, we may say that in the world of parliament, speech is the elastic, free, all-pervading and mobile element in its composition.

But clearly this element, so free in itself, must be subject to some form of regulation. Speech in parliament is not monologue: speech and reply, the struggle between different sets of facts and views stated by different orators, are needed to elucidate the opinions of the members individually and of the body as a whole. There must be rules and standards before a succession of speeches becomes *Debate*, the characteristic form in which speaking appears in parliamentary proceedings.

However close the resemblance between the natural and traditional conditions under which the deliberations of all assemblies take place, and what we call the rules of parliamentary debate, we should in strictness confine the last expression to the oral proceedings of parliamentary and quasi-parliamentary bodies. The critical difference is that in

a parliament the form of deliberation and the rules which govern it are *integral parts of public law*. Together with the other legal requirements of fact and form above referred to, the rules governing debate are *indispensable juristic conditions of the legality of the parliamentary expression of will: such an expression can only result from a deliberation of legal type, and is not otherwise to be considered as representing the will of the state.*

There are two features which give to debate in Parliament its unique legal nature: first its being under the protection of the great constitutional principle of unrestricted *freedom of speech*, and secondly its being subjected by parliamentary law to definite rules and standards indicating how to apply the principle of freedom and partially limiting its operation. As parts of parliamentary law, they, together with the rest of the order of business, must be observed in order to secure the regularity and validity of what is done. The discussion must be legally conducted, *i.e.*, there must be a debate in compliance with the rules, or, if not, all prescribed opportunity for debate must have been offered (for nobody is bound to speak): otherwise the result of the deliberation and debate, the expression of the will of the House, cannot possess enough moral power to entitle it to rank as the will of the state, and therefore operative to enact a law. There seems to be a contradiction in terms between the principle of unrestrained liberty of speech and a strict adherence to rules of speech and debate; but it is easily resolved by tracing the historical origin of freedom of speech in the oldest of parliamentary bodies, the House of Commons.

Freedom of speech is in England one of the original and fundamental privileges of the members of both Houses of Parliament, but it is a privilege intended in the first instance as a protection against *attacks from without*. It is of course possible to conceive of freedom of speech being endangered by events arising within Parliament itself, but any such risk would be in the realm of fact, not in the realm of law; for equality among all members is of the essence of a representative parliament as contrasted with a meeting of Estates. Freedom of speech, looked at from

the point of view of the House as a whole, does not mean boundless license of speech, but equal freedom to all in the House, and equal latitude in the application of all rules as to speech to all the members. But the political institution against which freedom of speech had originally to be asserted as a principle of law was that will-forming organ, the power of which must needs suffer from the growth of Parliament, namely the Crown, the authority of the King. Hence only was there any danger to the vital principle of freedom of speech, any risk that free expression and exercise of the forms of parliamentary action would be allowed to some only, not to all, of the views held by members of the body.[1]

The privilege of freedom of speech as against the Crown appears to have been an acknowledged right from the beginning. "They did oftentimes," says Elsynge, "under Edward III, discuss and debate amongst themselves many things concerning the King's prerogative; and agreed upon petitions for laws to be made directly against his prerogative, as may appear by divers of the said petitions; yet they were never interrupted in their consultations, nor received check for the same, as may appear also by the answers to the said petitions."[2] As a matter of fact there are few instances of any royal attack upon the freedom of speech of members

[1] *Hatsell* lays great emphasis, when stating the law as to privilege of Parliament, upon the fact that privilege is solely intended to guard the functions of Parliament undisturbed, and is not intended for the advantage of members. "The principal view, which the House of Commons seem always to have had in the several declarations of their privileges, was this 'of securing to themselves, (1) their right of attendance in Parliament, unmolested by threats or insults from private persons; (2) their thoughts and attention undisturbed by any concern for their goods or estate; (3) their personal presence in the House, not to be withdrawn, either by the summons of inferior courts; by the arrest of their bodies in civil causes; or, which was of more importance, by commitment by orders from the Crown, for any supposed offences.' Beyond this they seem never to have attempted to go; there is not a single instance of a member's claiming the privilege of Parliament, to withdraw himself from the criminal law of the land: for offences against the public peace they always thought themselves amenable to the laws of their country; they were contented with being substantially secured from any violence from the Crown, or its ministers, but readily submitted themselves to the judicature of the King's Bench." (*Hatsell*, "Precedents," vol. i., 3rd edn., pp. 200 *sqq.*; 4th edn., pp. 205 *sqq.*)

[2] *Elsynge*, "Modus tenendi parliamentum," p. 177.

of Parliament. The two cases which ought to be mentioned here, Haxey's case, in Richard II's time, and Strode's case, under Henry VIII, furnish the clearest evidence of the immemorial acknowledgment of the principle of free speech in the House of Commons. The latter incident, indeed, led to the enactment of a special statute (4 Henry VIII c. 8) which expressly provided

"that all suits, accusements, condemnations, executions, fines, amerciaments, punishments, corrections, grants, charges, and impositions put or had or hereafter to be put or had upon the said Richard [Strode] and to every other of the person or persons afore specified that now be of this present Parliament or that of any Parliament thereafter shall be, for any bills, speaking, reasoning or declaring of any matter or matters concerning the Parliament, to be communed and treated of, be utterly void and of none effect."[1]

In the period of struggle between the Tudors and Stuarts and their parliaments it was, no doubt, upon this particular privilege of members that the most frequent attacks were made by the Crown : the final and decisive case was that of the three opposition leaders in the parliament of 1629, Sir John Eliot, Denzil Hollis, and Benjamin Valentine, who in the course of the following year were condemned by the Court of King's Bench in severe penalties for their speeches in the House of Commons, after a ruling by the judges that the act of 1512 was a private act referring to Strode's case only.[2] The Long Parliament afterwards declared the whole of the proceedings to have been a breach of the privileges of the House :[3] and in 1667 the Commons returned to the subject once more, passing a resolution (12th November 1667) that the statute of 1512 was of general operation, "a declaratory law of the ancient and necessary rights and privileges of Parliament."[4] A conference was held with the House of Lords and as a result of the deliberations the judgment of 1629 was brought before the House of Lords on a writ of error, and formally reversed

[1] Thirty years later is the first record of the Speaker's demanding the privilege of freedom of speech at the opening of Parliament. See *Elsynge*, p. 176.

[2] *Forster*, "Sir John Eliot," vol. ii., pp. 459 *sqq.*

[3] *House of Commons Journals*, vol. ii., p. 203.

[4] *Ibid.*, vol. ix., p. 19.

by judgment of the House; the principle of freedom of speech in Parliament thus received formal establishment.[1]

The claim embodied in the principle and the foundation upon which it is based appear most clearly in the report of the conference on the 11th of December 1667 in which the view of the Commons is stated thus: "No man can make a doubt but whatever is once enacted is lawful; but nothing can come into an act of parliament, but it must be first affirmed or propounded by somebody; so that, if the act can wrong nobody, no more can the first propounding: the members must be as free as the Houses. An act of parliament cannot disturb the state; therefore the debate that tends to it cannot, for it must be propounded and debated, before it can be enacted."[2]

And finally this fundamental right of members of Parliament, springing as it were from the very nature of things, was further recorded and defined in the Bill of Rights. By section 9 it was declared "That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament."

The legal proposition, therefore, was undoubtedly laid down as a measure of protection, as one of the conditions necessary to the existence of Parliament in its conflict with the Crown and the subservient courts of law. The statement in the Bill of Rights shows the limits within which the principle is to be applied: the claim made is not for absolute freedom of speech; speech is only to be independent of every authority except the private jurisdiction of Parliament over its own members. *The autonomous jurisdiction of Parliament is the reverse side of the shield which protects the principle of freedom of speech, in the technical sense of the word.* The power of Parliament to judge the acts and speeches of its members is the starting point, a condition precedent for its complete and absolute liberation from the control of any exterior authority. We can, of course, conceive a parliament which disclaimed such an autonomous jurisdiction, and

[1] Judgment of 15th April, 1668; *House of Lords Journals*, vol. xii., p. 223.

[2] *House of Lords Journals*, vol. xii., p. 166.

refused to call its members to account for transgressing the bounds of usage and tradition; and again a parliament might declare in advance that it did not insist on any standards of speech among its members and would exercise no control over them: in such cases we should be without the historic premisses from which the privilege was deduced in England. The struggle there for freedom of speech was waged to emancipate the action of Parliament from all influence of Crown, courts of law and Government; it was never a fight for an absolute right to unbridled oratory, for freedom to each member to say exactly what he pleased. From the earliest days there was always strict domestic discipline in the House and strict rules as to speaking were always enforced. The House could point to its autonomous regulation of the conduct and speech of its members, and to its enforcement of its rules; its power of so doing enabled it to claim and to win for its members the right of exemption from all responsibility at common law for what they said in its debates. Thus, theoretically speaking, the principle of parliamentary freedom of speech is far from being a claim of irresponsibility for members; it asserts a responsibility exclusively to the House where a member sits, and implies that this responsibility is really brought home by the House which is charged with enforcing it.

We have therefore found not merely that definite rules of debate are compatible with freedom of speech; we have been led to the conclusion that they are an absolute necessity if the words of members are to be protected from question by any other court or authority. Freedom of speech and self-imposed rules of debate are linked conditions for the existence of true parliamentary action.

A further consequence is the necessity for special legal provisions to secure obedience to the rules thus laid down for speech and debate. Without such sanction we should still lack the proper foundation for the privilege of freedom from external restraint. So that we find not only a number of direct rules governing debate in the House of Commons, but in addition a kind of parliamentary criminal law and criminal procedure, derived from the power of autonomous punishment of the High Court of Parliament. And the

history of Parliament shows the power of punishment to have been actually asserted and exercised over a period of many centuries; by its aid the bounds of the freedom of speech allowed to members in the House were drawn by the House itself while it recognised no right in any other body to lay down any bounds at all.

In what follows we shall first study the rules drawn up for the regulation of debate and then summarise the powers of the House and the Chair for protecting the rules framed to this end.

CHAPTER II

Order in Debate[1]

UNDER the rules of the House of Commons debate must always have relation to some definite question before the House: there must be a motion and a question framed thereon; the question must be proposed to the House from the chair, for the purpose of eliciting the will of the House. The debate begins with the proposal of the question and ends with its being "put" and voted upon. *Without motion and question there is no debate:* this is one of the cardinal principles of English parliamentary procedure, and indeed the ultimate basis of order in the House. No principle is more strictly observed.[2] According to the theory of English parliamentary procedure all parliamentary deliberation is debate; it is not a succession of independent orations, but is composed of speeches and replies: it is a mutual play of opinion upon opinion expressed by the speeches of members of a numerous body of men occupied with some question to be answered in the affirmative or negative.[3]

There are but three exceptional cases in which, according to rule, action by members may be taken without the necessity of a question being proposed to the House. They are:

1. Questions addressed to ministers.
2. Personal explanations by members.
3. Statements and announcements of facts by members of the House who are Ministers of the Crown.

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[1] *Bourke*, "Decisions of Mr. Speaker Shaw Lefevre," pp. 124–167; *Manual*, pp. 115–125; *May*, "Parliamentary Practice," pp. 310 *sqq.*

[2] See, for instance, rulings of the Speaker, in 1843, *Hansard* (67), 1161, and in 1878, *ibid.* (240), 1611. Connected with this principle is the further rule that any member, who is not speaking to a question before the House, must conclude with a motion which will form the subject of the subsequent debate.

[3] *May* says, with striking brevity, "Every matter is determined upon questions put by the Speaker and resolved in the affirmative or negative, as the case may be" ("Parliamentary Practice," p. 277).

The first of these exceptional cases has already been fully considered. The two others will be better treated after an explanation of the general rules of debate.

The first points to consider are the beginning and duration of a debate. As already remarked, *there is no such thing, amongst either the Commons or the Lords, as a list of speakers.* Any member who wishes to speak may rise and endeavour, as it is said, to catch the Speaker's eye. He who is first seen and named by the Speaker has the right to speak.[1] It is, of course, entirely in the Speaker's discretion which of the members who rise he sees or wishes to see. Each member speaks from his place, *i.e.*, as a rule from one of the benches which run parallel to the sides of the House. If a member attempted to speak from one of the side gallery benches he might, technically, be in order; but he would be likely to fail in "catching the Speaker's eye."

The succession of speakers is therefore left entirely to the Speaker. If his call is disputed by some member who thinks he rose before the Speaker's choice the question is always at the present day decided from the chair, though in former times it was customary to take the decision of the House. The change of practice is a wise one. When a debate is lively a crowd of members rise at every opportunity and the House is no better able to judge who was first than the Speaker. In calling upon members to speak, it is customary for the Speaker to try and arrange for speakers *pro* and *contra* alternately. He strives to provide for the needs of thorough discussion of the subject before the House and to comply with the dictates of parliamentary tact. When, as often happens, the debate reaches its climax in a duel of speeches between the two party chiefs, the Leader of the House and the Leader of the Opposition are, if possible, called upon in immediate succession. If some member of the Opposition challenges or appeals to some minister who is at the moment in the centre of the fray, the Speaker will if it is possible give him an early opportunity to reply.

[1] By old parliamentary usage a new member, who wishes to make his maiden speech, enjoys the privilege of being first "seen" by the Speaker if he rises at the same time as other members.

The only precedence in debate accorded by the rules to any member is that given to one upon whose motion a debate has been adjourned to some future day. When the debate is resumed he has a right to the first speech, if he rises to claim his privilege. The same treatment is accorded to a member whose speech is interrupted by an adjournment under the terms of the standing orders, or by the arrival of Black Rod from the House of Lords.

The first speaker having been called upon, debate has begun. Under the historic law of Parliament there is no limit to its duration, *i.e.*, to the number of speakers and the time occupied by them. Modern practice has, on the other hand, introduced the closure based upon motion and simple majority. The provision in the rules is as follows :—

> After a question has been proposed, a member rising in his place may claim to move "That the question be now put," and unless it shall appear to the Chair that such motion is an abuse of the rules of the House or an infringement of the rights of the minority, the question "That the question be now put" shall be put forthwith, and decided without amendment or debate.[1]

The rule thus stated would not in all cases be sufficient to secure that the business before the House should be disposed of. The standing order therefore goes on to provide that when a motion for closure has been carried, any further motion may be made which may be requisite to bring to a decision any question already proposed from the chair ;[2] it is therefore not necessary to repeat the motion for closure. A motion of this nature, like a motion for closure, may be prevented by the Speaker or Chairman withholding his consent. Standing Order 26 further distinguishes an analogous procedure for bringing to an end the discussion on a clause of a bill which may be under consideration, authorising the proposal of a motion (after closure has been decided upon), "that the question, that certain words of the clause stand part of the clause, *or* that the clause stand part of, *or* be added to, the bill, be now put." Such motions, which sweep away all amendments

[1] Standing Order 26, paragraph 1.

[2] Standing Order 26, paragraph 2.

to the clause in question, whether formal or substantial, are to be put to the vote forthwith and decided without amendment or debate.[1]

A motion for closure needs for its acceptance the support of a certain number of members (Standing Order 27). Such a motion, even though it may command a majority, produces no effect unless it appears by the numbers declared from the Chair that at least a hundred members voted for it.

There is no need here to add anything more as to the close of a debate by adjournment or as to its "interruption" in the technical sense of the word. We need only recall the fact that a motion for closure may be proposed upon the interruption taking place, *i.e.*, at the hour fixed for the end of the sitting. What happens is that at the time appointed the Speaker (or Chairman) rises with the words "Order! order!" interrupting the proceedings, and declares that the debate stands adjourned. As stated before, the interruption is always postponed, in case a division is in progress at the fixed time, until such division is completed, and also till all further questions consequent on

[1] The following statistics give particulars as to the application of the closure since its permanent introduction in 1887:—

Session	No. of closure motions	No. of closure motions in committee of whole House	No. of closure motions refused by Chair
1887	37	15	5
1888	84	38	35
1889	43	30	18
1890	87	40	46
1891	39	19	16
1892	49	36	17
1893-4	168	60	95
1894	36	20	18
1895	29	27	16
1896	99	50	39
1897	75	34	27
1898	23	13	10
1899	33	12	17
1900	23	12	4
1901	82	44	8
1902	96	39	15
1903	20	5	7
1904	69	39	17

the result of the division have been decided. If, however, business of this nature is proceeding and any member offers to speak or objects to further progress being made, the interruption becomes effective: but the closure can still be moved. If it is accepted, the consequence is that, in spite of the interruption, the motion actually before the House has to be put to the vote.

In addition to the ordinary closure the House has, as we have seen before, a second method of forcibly terminating a debate, available in cases of emergency: it is known as "closure by compartments" and as the "parliamentary guillotine." Such are the names given to an order of the House whereby the close of the debate upon some particular subject is fixed in advance for a certain sitting, and a certain hour of that sitting: at the end of the time allowed all votes necessary for disposing of the matter have at once to be taken. It is not necessary to do more than refer to the account given in Book I. Hitherto this mode of forcing a measure through the House has only been applied on occasions of great legislative importance, under the pressure of the shortness of the session and to overcome an obstinate resistance hardly distinguishable from obstruction. It was, for instance, used in 1902 to overcome the untiring Nonconformist opposition to the Government's proposals for reorganising elementary education: but resort was not had to it until the committee stage alone had occupied thirty-eight sittings in the regular spring session and special autumn session without reaching its end. It cannot be denied that the application of such heroic measures to secure the carrying on of state affairs, however often it may have had to be applied since its invention in 1887, is a confession of a temporary breakdown in the rules and in the ordinary machinery of parliamentary government. No less an authority than the late Prime Minister, Mr. Balfour, felt bound to admit as much on one of the occasions when he was advocating the use of the "guillotine."[1]

Passing on to the speeches of individual participants in

[1] *Parliamentary Debates* (114), 608. An example of the method of closure by compartments will be found in the Appendix.

the debate, our first remark is that there is no principle regulating the length of a speech. There is, indeed, no time limit to speeches in the House of Commons.[1] Except by a call to order no member may be interrupted in a speech so long as he does not infringe any of the rules and regulations of debate.

Among these regulations the chief place must be assigned to that which requires *relevance*. The speaker's remarks must have some direct or indirect connection with the matter under discussion. It is, moreover, strictly forbidden to wander off to matters already decided on a former occasion or to matters appointed for discussion on some future day. A rule of the highest importance has relation to debates on motions to adjourn the House or to adjourn the debate. By Standing Order 22,

> When a motion is made for the adjournment of a debate or of the House during any debate . . . the debate thereupon shall be confined to the matter of such motion; and no member, having moved or seconded any such motion, shall be entitled to move, or second, any similar motion during the same debate.

By this order the right of joining in the discussion of formal questions is limited both as to subject matter and as to the persons entitled to speak. It forbids any argument on the merits of a bill when a motion for adjournment of the debate upon it is before the House.[2]

With the few exceptions just stated the right of any member to speak at any time is subject to no limitation in principle. There is, of course, the fundamental rule of English parliamentary law, that on any given question each member is entitled to speak *once only*. It follows that in a debate on a simple motion a member has only one opportunity of speaking. When a bill is under discussion in the House each member is entitled to speak once to each motion which forms part of the deliberation, be it to add a clause

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[1] In recent years attempts to introduce a time limit have been made. In 1903 Major Carne Rasch made repeated but fruitless efforts to induce the House to fix a twenty minutes limit.

[2] Even repetition of the reasoning of a previous speaker may be stopped as contrary to order. See Standing Order 19, and *Parliamentary Debates* (123), 312.

or to amend a clause or to amend an amendment. The rule is so strict that it prevents a member who speaks with the intention of ending with a motion and for any reason does not propose it from repairing his omission: to do so he would have to rise and address the House again.

The exceptions to the rule are very few. In case a member after speaking in a debate finds it necessary to give an explanation of some material passage in his speech, he is allowed to speak again; but he must not take advantage of the indulgence to bring in new matter or new arguments. The usual time for such a personal explanation is at the end of the speech which leads to its being given. At times, with the permission of the member who is speaking, it may be interposed in the middle of what he has to say. The Speaker is always very careful to see that "personal explanations" are what their name implies, and are made in as concise a form as possible. Any argument or recrimination would be at once suppressed.[1]

A further exception is the right of reply enjoyed by the member who has proposed a substantive motion. He is entitled to a second speech at the close of the debate. The right does not extend to the mover of a formal motion, such as a motion for adjournment, or to a member who has moved an order of the day.[2] In the case of moving an order of the day a member may reserve his right to intervene in the debate at a later stage by signifying his proposal of the order by merely raising his hat, without saying a word.

The most important qualification of the rule against speaking more than once is that it only applies to the debates in the House strictly so called, and has no force in a committee of the whole House. In committee members may speak twice, indeed as often as they wish. The lack of this rule in committee is the principal difference between the regulations as to debate in committee and those as to debate in the House.

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[1] See, for instance, *Parliamentary Debates* (109), 241.

[2] A right of reply may be claimed by a member who has moved a substantive motion for the adjournment of the House. (*May*, "Parliamentary Practice," p. 321.)

There are, besides the general requirement of relevance, a large number of rules as to the form and substance of speeches : they may be grouped and discussed as follows.

A—*Rules to be observed in speaking*

Every speaker must address the Chair, not the House.[1] This rule is rigidly observed. An appeal to the House such as is common in Continental parliaments is impossible in the House of Commons. Speakers stand at their places with uncovered head. There is no tribune ; such a piece of furniture would be in the way in so small a chamber, and would not be of any use. While a division is being taken it is permissible to speak briefly to points of order ; a member doing so must remain seated and keep his hat on.[2]

All reference to previous debates in the House during the current session upon any question or bill not under discussion is forbidden. The prohibition does not extend to preventing debates on earlier stages of a bill being referred to. This rule is designed to prevent the revival of a debate which has once been brought to an end. Another regulation having the same praiseworthy object, is that a member is not allowed to speak against or reflect upon any previous determination of the House during the current session except on a motion for rescinding it. There are solid grounds for such a rule. According to the view of the House of Commons each vote ends the discussion which leads up to it, and binds the dissenting minority. Further opposition is therefore illogical, as it is taken for granted that a decision by majority expresses the will of the whole House.[3]

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[1] Before the election of the Speaker, in the proceedings leading up to the election, speeches are addressed to the Clerk of the House.

[2] Many members sit in the House with their hats on ; when messages from the Crown are read and on solemn occasions, such as votes of thanks, memorial speeches and the like it is customary to uncover.

[3] *Hatsell* (" Precedents," vol. ii., 3rd edn., p. 221 n. ; 4th edn., p. 233 n.) gives the excellent arguments of Speaker Onslow in support of the rule :— " That to cavil at, or throw reflections upon, what the House have actually decided, besides the indecency which such a proceeding bears upon the face of it, can have no other possible effect than to introduce reply and recrimination, which, as the House are not called upon to put an end to by a question, must deviate into warm and personal altercations."

In like manner it is forbidden to refer to debates in the House of Lords, and that House in its turn does not allow reference to the debates of the Commons. The theory is maintained that each House is ignorant of the speeches made in the other.[1] Moreover, a discussion between speakers who belong to different independent bodies appears, to English notions, bound to be sterile and therefore unparliamentary. Now that the debates of both Houses are published with regularity the theory seems to rest merely upon a fiction, maintained in spite of the modern attitude of Parliament to publicity. Thus, as May says, the rule is one which at the present day is constantly disregarded, generally with the tacit acquiescence of the House. As he remarks, an ingenious orator may easily break through rules in spirit and yet observe them to the letter. The rule does not extend to facts appearing from official documents to have taken place in the other House, or to transactions recorded in the minutes of its sittings or reports of its committees.

It is strictly forbidden to read a speech; to allow reading would introduce the greatest danger of encouraging diffuseness and destroying the life of the debates.[2] Again it used to be out of order to read extracts from newspapers or letters, passages out of books or printed reports of speeches. So far as the rule applies to printed speeches other than those of the current session it has for years been tacitly ignored: the same may be said of letters not referring to matters arising in the session during which they are read. As to newspapers the House, on the 9th of March 1840, *against* the ruling of the Speaker, allowed extracts to be read. On the 14th of February 1856 the Speaker acknowledged the binding force of the precedent thus laid down. Quotation of extracts from books in support of a member's views was ruled by the Speaker, on the 9th of July 1855, to be in order.[3]

Nothing has been done to weaken the force of another rule of a similar kind, that no reference must be made in debate to matters before the courts of law in some pending litigation. Finally it is forbidden to ministers to quote

[1] Modern ruling. (*Parliamentary Debates* (116), 1354 and 1409.)
[2] *Ibid.* (122), 554.
[3] See "Decisions of Speaker Shaw Lefevre," pp. 135, 138, 139.

documents or state papers without at the same time laying the full text upon the table of the House. The rule is founded on the analogy between the Houses of Parliament and the courts of justice; the principle that no document must be quoted in court without being produced is held to be applicable to Parliament as well as to an ordinary judicial tribunal.[1]

There are numerous limitations as to form and expression. Treasonable and seditious words must never be used. A member who transgressed this rule would not only be liable to be called to order: he would lay himself open to severe reprimand or even to one of the disciplinary punishments which the House is entitled to inflict. Again, it is forbidden to introduce the King's name for the purpose of influencing the debate[2]—though, as we saw in a previous chapter, it is allowable, by substantive motion after notice to call in question the conduct of the Crown. Without such a substantive motion it is improper to comment on the actions of the sovereign or of the other specially protected personages before referred to. Ministers are bound equally with all other members to such abstinence. It is only for the attainment of some definite object that the sovereign should be named in the House.

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[1] Reference to a correspondence involves the laying the whole correspondence before the House: ruling on 12th March 1903. It is noteworthy that in giving this ruling the Speaker placed upon it the limitation, that it was, nevertheless, competent to a minister to withhold a portion of such papers for reasons of state; but if he did so he must assume personal responsibility for such reticence. See *Parliamentary Debates* (119), 501, 570.

[2] *May*, "Parliamentary Practice," pp. 328–331. There has been no surrender of the great principle, maintained against Charles I in 1641, and against George III in 1783, that on matters of state the King can have no other views than those of his ministers, who bear the responsibility for them. Crown influence upon the proceedings of Parliament had under George III revived to an enormous extent and had produced most serious consequences for England: by resolution of 17th December 1783 it was solemnly stigmatised as a crime against the state and an infringement of the rights of Parliament; the resolution passed by the House reads, "That to report any opinion or pretended opinion of His Majesty upon any bill or other proceeding depending in either house of parliament, with a view to influence the votes of the members, is a high crime and misdemeanour derogatory to the honour of the Crown, a breach of the fundamental privileges of Parliament and subversive of the constitution of the country."

The House of Commons will no more allow a member to use offensive or insulting words against Parliament as a whole or either House than it will permit such behaviour towards the Crown. Personal insults to fellow members are strictly forbidden: there is quite a long list of expressions, the use of which has been ruled by the Speaker to be an act of unparliamentary behaviour. The party conflicts of the last few decades have seen this rule constantly and emphatically enforced to protect the House of Lords against attacks from Radical quarters. The use of unbecoming language is sure to cause the instant intervention of the Chair and, in case of need, to be followed by some measure of punishment. Protection against insult is not confined to the Speaker and the members of the two Houses: it extends to all those persons in high authority who, under the rules, can only be attacked by means of a substantive motion, and who are not to be subjected to casual criticism during a debate on some other subject. The practice of the nineteenth century has even enlarged the class to include the rulers of friendly states.

There is a whole chapter, and a most important one, of rules which aim at depriving debate, looked upon as a combat of words between the members, of all needless and injurious bitterness. As one of the Speakers said long ago, a member "is entitled, by the rules of debate, to use such expressions as he may think necessary, provided they do not convey any personal reflection on another member, and are not disrespectful to the House."[1] One of the chief safeguards against failure in courtesy is the practice, which has a history of centuries behind it and is observed with unfailing strictness, of insisting that members shall not refer to each other by name; if any member wishes to speak of one of his colleagues he must describe him in some allusive way, as by reference to the constituency which he represents: it is also expected that an appropriate polite reference to his profession shall be added. A member is always called "the honourable member for (say Greenwich)" or, if a Privy Councillor, "right honourable"; lawyers are

[1] *Hansard* (115), 275 *sqq.* (20th March 1851).

"honourable and learned," soldiers "honourable and gallant" and so on. The employment of such forms gives to a debate in the House of Commons a more ceremonious tone than is customary in German and other parliaments where they have not been adopted. "The use of temperate and decorous language," says Sir Erskine May in a striking passage, "is never more desirable than when a member is canvassing the opinions and conduct of his opponents in debate. The imputation of bad motives, or motives different from those acknowledged; misrepresenting the language of another, or accusing him, in his turn, of misrepresentation; charging him with falsehood or deceit; or contemptuous or insulting language of any kind;—all these are unparliamentary and call for prompt interference. The same right to claim courteous treatment in debate is due alike between both Houses of Parliament; and abusive language, and imputations of falsehood, uttered by members of the House of Commons against members of the House of Lords, have been met by the immediate intervention of the Chair."[1]

The same procedure is adopted when a member of the other House is treated with disrespect as in the case of an offence to a member of the same House. Before recourse is had to any measure of punishment, such as is hereafter to be described, there is a kind of attempt at reconciliation:

[1] *May*, "Parliamentary Practice," pp. 333, 334. May here gives a number of rulings as to expressions which are to be regarded as unparliamentary. It is obvious that no precise rules can be laid down, and that views as to the admissibility of particular expressions will vary from century to century, and even during shorter periods. A perusal of the Speaker's rulings for the last thirty or forty years will leave the impression that he is very solicitous to prevent any attacks on personal honour, but that ample latitude is allowed in the use of severe words, of forcible expressions of conviction, and that there is no undue restraint upon the personal attacks which are, to a certain extent, unavoidable in parliamentary warfare. The modern practice of the president in the German Reichstag, which meets almost any forcible or lively expression in the House with a call to order, is distinctly different. Taking a few examples from the rulings of the last ten years we find that the cry of "gag" as a protest against the misuse of the power of the majority is forbidden (*Parliamentary Debates* (90), 1230): so also are "nonsense" (*ibid.* (108), 848), "coward" (*ibid.* (113), 321), expressions such as "members who disgrace this House" (*ibid.* (116), 1254), "pharisees and hypocrites" (*ibid.* (102), 1003), "traitor" (*ibid.* (105), 591), "disingenuous and dishonest" (*ibid.* (102), 226), &c.

the member in fault is always requested at once by the Speaker to withdraw the objectionable words he has uttered. The custom dates back to the days in which, even in England, a duel was only too often the sequel to a conflict of words in Parliament: the enforced public withdrawal of an insult was intended to avert the possibility of a challenge by the person aggrieved. Objectionable words had, on the motion of a member, to be "taken down," *i.e.*, recorded by the clerk at once.[1]

Lastly, it is an old customary law of the House, established by frequent rulings, that misuse of the right of speaking for the purpose of obstruction, *i.e.*, of hindering the course of business, is a serious infringement of the rules as to speech and debate. We need not repeat here what has been already said on this subject in the historical part of this work.

B—*General behaviour during debate*

We now come to the rules governing the behaviour of members during the speech of one of their fellow members. They are simple rules of order. Members are to stay in their places during a debate, not to walk about the House or stand. When they enter or leave the chamber they must do so in a dignified way, and use the customary ceremonial, making an obeisance to the Chair: nobody is allowed to pass between the Speaker's chair and the table of the House, or between the Speaker and a member who is addressing him. Speeches are not to be disturbed by noise or unseemly interruptions, and private conversation must be carried on in a low tone of voice.

At times, when there is a large attendance of members, it is a matter of some difficulty, by reason of the smallness of the chamber, to observe all these rules; and their application is always left to the discretion of the Speaker or Chairman, who will take account of the circumstances of the moment. But any visitor to the House of Commons

[1] *Hansard* (115), 636 (27th March, 1851). Quite recently the Speaker has described the procedure of "taking down" insulting words as obsolete and not to be employed.

will bear testimony to the fact that they are in substance very well obeyed. At the present day everything seems to move steadily and quietly, and the whole of the proceedings seems wrapped in an atmosphere of continuous and minutely regulated work. Such interruptions as occur usually run a regular course. A speaker will sit down if some other member interrupts him for the purpose of making an immediate correction of what he is saying: the member who interposes generally uncovers and rises to his feet before he speaks.[1] One cannot see in the House of Commons, as in so many Continental parliaments, numerous messengers strolling about, postmen looking round to find the addressees of the letters they have to deliver and hurrying from place to place; there are no little knots of members talking in various corners; nor does one notice groups engaged in loud conversation without regard to the dignity of the assembly of which they form part. The Speaker sits enthroned on high in lonely majesty; no member, not even a minister, may engage in conversation with him so as to distract his attention from what is going on. As a rule it is impossible to repress a feeling of astonishment at the quietness so characteristic of the House even at times of great political excitement.

No doubt the decorum is largely due to the national temperament of the members; it is not only political oppression but difference of nature that leads the Irish members to be the traditional disturbers of the dignified calm of the House of Commons.

Besides laying down prescribed forms of speech in debate, the House insists with tolerable strictness upon a certain ceremonial in the moving of members about the House. Though it is customary for members who are not speaking to sit with their hats on, they are not allowed to enter or leave the House without uncovering and bowing to the Speaker. Newspapers and books may not be read in the House, nor letters except such as relate to parliamentary

[1] The excitable members of the Irish Nationalist party do not strictly conform to the traditional ceremonious methods of interjecting their interruptions.

business.[1] Loud conversation is forbidden, and, as just remarked, is seldom indulged in. Strictly speaking, no member may be interrupted in a speech; but certain exclamations, of traditional stereotyped forms, are regarded as parliamentary, though they certainly do, especially if repeated, disturb the debate. When this happens the Speaker warns the members who have gone too far with the words "Order! order!"[2] An interjected remark is not in itself disorderly, but, as was recently ruled, no member may, except on a point of order, interrupt a speaker unless he chooses to give way to him.[3] The duty of maintaining a parliamentary standard of behaviour is incumbent upon members in the lobbies, as well as in the House; and the jurisdiction of the Speaker and the House to punish offences extends to what is done there. And all the rules apply equally to sittings in committee and in the House.[4]

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[1] The absence of tables in front of members' seats in the House of Commons, so that it is impossible to read or write there with comfort, secures compliance with these regulations. Where, as for instance in the Austrian House, each of the (425) deputies has a convenient desk with writing materials and a locked drawer, it is easy for a notion to grow up that a seat in the House, besides other advantages, confers upon a member a right to transact his private affairs comfortably in the chamber of meeting.

[2] A strange impression is made by the cries of support and disapproval being always given in fixed forms, which have the sanction of tradition. The "cheers" of the House of Commons are given with peculiar modulations, which, according as they come from friends or foes, have a friendly or ironic character. Cheers and counter-cheers resound when some prominent member states his views in specially rousing words. The artificial character of these displays is made all the more marked by the parties giving their cheers in unison, so that the whole thing sounds like the performance of a choir. A close observer of the House, *Sir Richard Temple*, has given in his interesting book ("The House of Commons," pp. 104–106), a complete psychology of the form of expressing opinions. The foreign observer will feel the peculiar power of old custom, to which, in a nation of such strong coherence as the English, everyone is ready to bow even in externals.

[3] *Parliamentary Debates* (91), 1258.

[4] Of course all these rules apply as much to ministers as to other members; they may equally be called to order. Every session supplies instances of such treatment. For instance, *Parliamentary Debates* (125), 1166. The famous dispute upon Bismarck's contention in the Prussian Chamber (26th February 1863) that ministers are not subject to the authority of the chair, would have been inconceivable in the House of Commons.

In spite of all rules in the seventeenth as well as in the eighteenth and nineteenth centuries, serious outbreaks of disorder repeatedly occurred: the parliamentary history of the last few decades is by no means free from instances of stormy sittings; at times, though but seldom, excitement has led to scenes in which good manners and regular procedure were quite thrown to the winds.[1] But such cases are hardly sufficient to support the common statement that parliamentary manners in the age of democracy have not, even in the House of Commons, been able to keep on the high level of those in the aristocratic parliaments of the eighteenth century, and the first half of the nineteenth. On the whole, and not reckoning what may be looked upon as unavoidable periodical outbursts of wrath among the Irishmen in the House, the British parliament is still the quietest and calmest legislative assembly in the world. Its manners are those of a body of gentlemen. For two centuries the House of Commons was undoubtedly an aristocratic chamber: in spite of all extension of the franchise it has never forfeited its social elevation, nor have its debates lost their calmness and urbanity of tone. The House of Commons, as has often been said, is still one of the best of London clubs: and though entrance to this club is obtained by an electoral franchise, which falls short of the demands of universality, equality, and directness made by political theorists on the Continent, an appeal has to be made to a constituency including the whole settled working population of the country, industrial, commercial and agricultural.

If we seek for the special qualities of the modern House of Commons, regarded as a debating assembly, we shall find them in the absence of rhetoric, in its "business-like" way of working, and in its strict observance both of the

[1] The most painful recollection of this kind attaches to the sitting of the 27th July 1893, when, during the committee stage of Mr. Gladstone's second Home Rule bill, a tumult broke out, in the course of which there was an actual exchange of blows between Nationalists and Unionists. The shame felt on this occasion was so deep that the House, to avoid further scandal, refrained from all investigation or punishment. But the incident is quite an isolated one, only explicable by the terrible excitement roused by the struggles over the unity of the kingdom.

forms of general social intercourse and of the special forms laid down by parliamentary law. No type of speaking is so little heard as the pathetic. It is usually said that the reason is to be found in the conditions of space under which the House meets ; the small room does not lend itself to displays of oratorical power. It is often urged, too, that pathos is not congenial to British modes of thought. Both these statements are, no doubt, true so far as they go, but they do not exhaust the subject. A perusal of the debates of the eighteenth century, even of those down to 1832, and of the speeches of the heroes of classic parliamentary oratory—Burke, Fox, Sheridan, Canning, even Brougham—will show that pathos has had its day in the House of Commons. At no time, however, was it a leading characteristic of English parliamentary speaking : and a comparison of English speeches with contemporary orations on the other side of the Channel, in the Constituent Assembly and the Convention, will soon convince the reader that the chief trait of modern public life in England—its sober earnestness—was the keynote of the whole, even in those days. It may be said without fear of contradiction, that parliamentary oratory has since then become even quieter and soberer, and that it keeps even closer to the subject matter. Macaulay, perhaps, may be looked upon as the last rhetorician of importance in Parliament, and in Gladstone's great figure was embodied, with much else of the old parliamentary tradition, the love of broad and sustained flights of eloquence. One other small point is perhaps worth mentioning. The great debaters of the eighteenth century were fond of seasoning their speeches with quotations from classical authors. This refinement of style is much less employed nowadays, and much less appreciated. No doubt its disappearance is largely due to the fact that the combatants on the benches of the House are now no longer a group of school-fellows from Eton and Harrow, or friends who spent their undergraduate days together at Oxford or Cambridge. Democracy has had a marked effect in strengthening the tendency to unimpassioned treatment of political affairs, and to purely business methods of disposing of legislative tasks.

The debates in the House of Commons are still eagerly read all over the country: one proof of the attention they receive is the strong echo which they wake in the press, especially in the "letters to the editors" of the daily and weekly papers which cast so strong a light upon English public life. One characteristic of the House of Commons, rooted, like the tone of the debates, deep in the nature of the people, is its tolerance: the House of Commons as a whole will bear much more from its members than most other Parliaments. The national love of fair play is carried into the warfare of politics: and in the House of Commons, though inopportune or wearisome speaking not infrequently extorts cries of impatience and leads to disorder and inattention, forbearance and calm endurance of opponents are to this day praiseworthy features of parliamentary behaviour.[1]

Both in what it does and in what it leaves undone the House of Commons, now more than in any former day, is a faithful mirror of British nature, of the national character. Thus Parliament serves as a trustworthy exponent of all the special aspirations of the nation's life as well as of the general interests of the whole community, and displays them on a stage where they can be well observed. With the throng of new interests brought into public life by the reforms in the franchise and the growth of democracy this responsiveness has been one of the chief causes of the introduction into the rules of Parliamentary order of new, and at times sharp, measures of discipline: without them it would have been impossible to maintain the great and venerable tradition of the House. It must never be forgotten that the strengthening of the House's disciplinary power for the protection of its debates, to an account of which our next chapter will be devoted, was brought about almost exclusively by the intervention of Irish members in British parliamentary affairs. Probably the English and Scotch would have been able to

[1] The usual form of calling for the end of a debate is to shout "'vide, 'vide" (short for divide).

The Irish members do not always have the full benefit of "fair play": but it is only just to recognise that the stubborn fight of the Home Rule party, which has now lasted without intermission for thirty years, has often strained the patience of the overwhelming English majority to breaking point.

do without such a statutory amplification and strengthening of the powers of parliamentary law. It may fairly be said that the new order of business is "Irish law"—an Irish law, however, having its origin in the injustice of centuries and an inevitable growth from that unhappy source.

CHAPTER III

Penalties for Breaches of Order

THE experiences of the House of Commons in the seventies and eighties of the nineteenth century taught it one very important lesson; they brought to light one of the great dangers that may beset a parliamentary body and proved that such an assembly cannot safely dispense with the fullest express powers of protecting its deliberations both against the turbulence of individual members and against a permanent intentional clogging of its activity by means of obstruction.

We have now to consider the result of these experiences, the modern form of rules which the House was driven to devise.

In so doing we reach the third of the points of view from which, as we saw, the problem now before us ought to be studied: we have to give an account of the means by which parliamentary order is maintained, that is to say of the special penal and disciplinary rules of Parliament and their manipulation by the House and its president. It is to be observed in the first place that, as we have already learnt in our historical investigations, the recently adopted measures of protection against disorder and interruptions to the business-like progress of debate appeal to no new fundamental principles, introduced for the first time into the parliamentary system of the country. On the contrary, the modern parliamentary penal code is only *a modification of the old historic root ideas of English parliamentary government* adapted to new conditions. All the rules for maintaining the order of business and securing a peaceful course for the deliberations of the House are firmly based upon its jurisdiction over its own members, which, to a certain point, is looked upon as absolute. Such a jurisdiction has from time immemorial been inherent in the Parliament of England, and we shall shortly have something to say as to its theoretical significance.

There are two modes in which the power of Parliament over its members finds expression, one gentle, the other severe. The first is the disciplinary power of keeping order entrusted by the House to the Speaker, the second the strict jurisdiction, exercised by orders of the House itself, over the delinquencies of its members. As debate is the province in which all parliamentary forms find their life and meaning, the disciplinary power of the Speaker only extends to his regular function of maintaining order in debate. The penal jurisdiction of the House has, however, always extended far beyond the bounds of debate, and in certain directions the House claims unlimited power over the persons of its members. It need hardly be said that this primary jurisdiction is only used by way of supplement to the powers exercised by the Speaker for the protection of the proceedings. The innovations made by modern rules only amount to the transfer into the Speaker's hands of a number of the more stringent powers already in the full possession of the House itself. All of them had both historically and theoretically been capable of exercise by the House, and *only* by the House. The constitutional nature of the House's jurisdiction and its connection with English public law as a whole will have to be further explained: but it will be well first to consider the actual rules in force.

The Speaker has always had the guidance of the House in matters of order and discipline. He was therefore, in old parliamentary language, often called Moderator; his function was that of moderating and arranging. The power of enforcing order is exercised in different ways according to the form in which the disorderly interruptions of debate make their appearance. We distinguish between four modes of action :—

1. Calling to order.
2. Silencing a member.
3. Suspension of a member for the rest of a sitting.
4. Naming a member with its consequences under the orders of the House which may be either
   - (*a*) suspension for a definite time, or
   - (*b*) expulsion or commitment under the historic powers of the House.

The punishments under heads 3 and 4 are only inflicted for behaviour amounting to what is considered a "contempt" of the House.[1]

1. A call to order by the Chair is the immediate consequence of the breach of any rule. The Speaker or Chairman, as the case may be, rises from his seat and interrupts the speaker, who is bound to sit down and listen in silence. He has no right to discuss the propriety of the ruling of the Chair. Any defiant repetition of an expression objected to by the Speaker amounts to a further and serious parliamentary misdemeanour and generally brings about an immediate resort to the punishments reserved for unbecoming conduct. It is quite proper and usual, when the rules are broken, for the body of the House by repeated cries of "Order! order!" to call upon the Speaker to rebuke the offender.

2. When a member persists in irrelevance or tedious repetition either of his own arguments, or of the arguments used by other members, and will not accede to the request of the Chair to cease from such action, the Speaker (or Chairman), after having called the attention of the House (or committee) to his conduct, is entitled to direct him to discontinue his speech.[2] Refusal to obey the order of the Chair would again be enough to constitute such improper behaviour as to draw down upon the member the procedure prescribed by the rules for contumacy.

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[1] Until the rules were revised in the years 1877–1888 the Speaker had only two ways of protecting the order of proceedings: he might call a member to order or he might "name" him. "Naming" a member, so often held out as a severe penalty, was, like a call to order, more a moral appeal to the member than a real punishment; it involved no definite sanction or punishment. In connection with "naming" it is customary to tell an instructive anecdote. The famous Speaker Onslow had repeatedly threatened a disorderly member that he would be obliged to name him, and was afterwards asked to say what would have happened had he carried his threat into execution. He is said to have replied, "The Lord in Heaven only knows." Hatsell, the authority for this story, adds that this was not really the state of affairs. The naming of a member to the House was an appeal to the House to support the Chair, to remove the disturber, and, in case of contumacy, to take further steps. See *Hatsell*, "Precedents," vol. ii., 3rd edn., p. 225; 4th edn., p. 238, and the precedents there quoted; by the eighteenth century naming had become of rare occurrence.

[2] See Standing Order 19; *May*, "Parliamentary Practice," p. 316.

The right of the Chair to silence a member has been considerably enlarged by the modern rules. Under Standing Order 23, if the Speaker or Chairman is of opinion that a dilatory motion is of an obstructive character and therefore an abuse of the rules, he may forthwith put the motion from the Chair or he may decline to propose the question thereupon to the House. This power is a weapon of the greatest keenness in the struggle with obstruction, and is placed absolutely in the Speaker's hands; it is a power capable of being exercised to the detriment of legitimate political tactics, but against this danger the House is protected both by the uprightness, impartiality and moderation of the Speaker and by the traditional respect paid by the House to the claims of "fair" opposition. The rule has, up to the present time, seldom been put into operation.

3. Under Standing Order 20, the Speaker or Chairman is to order members whose conduct is grossly disorderly to withdraw immediately from the House during the remainder of the day's sitting, and the Serjeant-at-arms is to act on such orders as he may receive from the Chair in pursuance of this rule. A member so ordered to withdraw must retire not only from the actual chamber, but from the whole precincts for the rest of the day's sitting. If he does not at once obey the order to retire the Serjeant-at-arms comes up to him and touches him on the shoulder. If he still resists the Serjeant signals to his messengers and several of them at once appear to help. Thereupon the member under censure generally gives way to superior force. Only once (on the 5th of March 1901) has there been any need to have an obstinate member actually carried out; on the one occasion when force was used (to remove certain Irish members who would not leave the House for a division) the necessity for such action on the part of the Speaker was questioned by many critics. An alternative course in the event of disobedience is to treat the new refusal as a fresh act of disorder which calls for the application of our next rule.[1]

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[1] As an example of the numerous suspensions in recent years that of Mr. J. O'Donnell on the 16th October 1902 may be referred to. (*Parliamentary Debates* (113), 82.)

4. If a member disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business of the House, or otherwise, the Speaker may "name" him. Thereupon, on motion being made to that effect, the Speaker is forthwith to put the question that he be suspended from the service of the House.[1] No amendment, adjournment or debate is allowed upon such a motion. The vote is really little more than a formality, as a rejection of the motion would assuredly be followed by an immediate resignation of the Speaker, a consequence which his complete freedom from partisanship would render unwelcome even to the parties in opposition. If the disorder occurs in committee the proceedings have to be forthwith suspended and the circumstance has to be reported to the House, whereupon motion and question follow as before. Under the rules as they stood before the 13th of February 1902 a first suspension lasted for a week, a second for a fortnight, and subsequent suspensions lasted for a month. On that day the provisions as to time were struck out but no new ones were inserted either then or subsequently. The result is that an order of suspension when made now lasts until it is rescinded or, if it is not sooner rescinded, until the end of the session. Suspension does not exempt a member from serving on any committee for the consideration of a private bill to which he has been appointed. Not more than one member may be named at one time unless several members, present together, have jointly disregarded the authority of the Chair: in the last-mentioned case they may be named together and all included in one order of suspension. The standing order also provides that if any member who has been suspended under it refuses to obey the direction of the Speaker when summoned under the Speaker's orders by the Serjeant-at-arms to obey such direction, the Speaker is to call the attention of the House to the fact that recourse to force is necessary in order to compel obedience to his direction, and thereupon the member so named as refusing to obey is, without further question put, to be suspended from the service of the House

[1] Standing Order 18.

for the remainder of the session. To complete our enumeration of the Speaker's powers, the modern rules authorise him, in the case of grave disorder arising in the House, to adjourn the House, or suspend any sitting for a time to be named by him. The standing order as to the procedure upon a member's being named by the Speaker contains an express proviso that nothing therein shall be taken to deprive the House of the power of proceeding against any member according to ancient usages.

We now pass on to the ancient jurisdiction itself, the historical as well as the theoretical source of all the newly formulated penal regulations of recent years. We will first enquire how this jurisdiction is asserted and has grown up: the question will then arise how it is to be constitutionally defined, and what is its connection with the whole system of British law.

As to the first point—the power of the House over its members is exercisable in three ways: by suspension, by expulsion, or by commitment.

Suspension from the service of the House was a method of punishment very seldom applied in early parliamentary history. Practically speaking it was only used in the times of Charles I, the Commonwealth and Charles II.[1] From 1692 the power had never been put in force till the year 1877, when the Speaker, under the circumstances detailed in vol. I, solemnly reminded the House of its existence and brought about its revival. In the remodelling of the rules during the last few decades it was recast into the form we have just described: by connecting it with the Speaker's right to name a member the passing of a sentence of suspension is practically placed in the Speaker's hands. It is therefore a substantial addition to the disciplinary power which he wields.

Expulsion from the House is the severest of the punishments enforceable against a member. It is rarely imposed as a primary penalty, being generally consequential upon a sentence pronounced upon a member by a court of law for a crime committed by him. It expresses the feeling

[1] *May*, "Parliamentary Practice," p. 56.

that the expelled member's conduct, whether actually bringing him within the meshes of the criminal law or not, is such as to destroy his fitness for membership of the House of Commons—is so bad that he would, if not removed, bring discredit upon the House itself. May gives as instances of the grounds for expulsion :—Open rebellion, forgery, perjury, fraud and breach of trust, misappropriation of public money, conspiracy to defraud, corruption in the administration of justice, or in public offices, or in the execution of the duties of a member of the House, conduct unbecoming the character of an officer and a gentleman, and contempts, libels, and other offences committed against the House itself.

The House generally bases its sentence of expulsion upon the record of conviction when laid before it, or upon the report of a committee. The punishment has been imposed repeatedly in recent years, especially in cases where members, when accused of a crime, have fled from justice.

The power of committing members as a penalty for disorderly conduct is a special application of a general right; there are many other occasions on which the general right is exercised by both Houses of Parliament. It may be used not only against members but against any citizen of the Empire. The House of Commons has possessed it from time immemorial :[2] it is closely connected with the function of Parliament expressed in its description as "the grand inquest of the nation." As such the House possesses all over the Empire a right of summoning British subjects to appear before it, analogous to the right which under ancient law brought everyone in the county to answer before the royal judge of assize and the sworn inquest of neighbours.[3] By some such analogy the parliaments of mediæval days had already endowed the House and its committees with the right of commanding any Englishman to appear at the bar to give information or to answer a charge, and further

[1] See *May*, pp. 56–58, and the instances there cited, covering a period of three centuries, some quite recent.

[2] "Immemorial usage;" as *May* says, nearly 1,000 cases of the exercise of the right between 1547 and 1850 are on record. ("Parliamentary Practice," p. 64 n.)

[3] See the numerous instances collected in the index to the *Journals* vol. i., s.v. *Privilege*, Nos. 387–442.

of imprisoning him if he failed to obey their order. We shall soon have to explain in what manner the power of the House is exercised and to what restrictions the ordinary courts of justice consider it to be subject. But we must first consider the question referred to before, on what fundamental principle of law it rests and how it is to be reconciled with the position of Parliament in the whole system of English constitutional law.

We must recall what was said before in our discussion of the idea of privilege.[1] As was there observed, the House of Commons was never recognised as a court of justice: but its co-ordination with the *magnum concilium baronum* gave to it, as a result of its constitutional development, a certain judicial standing, never quite matured on strict principles. The House of Lords, of course, has always been regarded as a fully qualified Court, and is to this day the Supreme Court of Appeal. When engaged in the work of legislation the House of Lords is no more a court of justice than the House of Commons, and for more than a generation the non-legal peers have taken no share in the judicial work of the House. But the House of Commons, though it made repeated claims to be a court of justice, was never able to sustain them; it is not and never has been what is technically called a Court of Record. The best proof of its lack of jurisdiction is that down to quite recent times the House of Commons had not the power, possessed by every judge, of administering an oath. Still, as we have seen, the House has some judicial authority, inasmuch as it can decide questions of privilege and can protect its privileges, the special rights which belong to it, by a corresponding executive power. In this way the House of Commons is invested with a certain measure of public authority such as is only otherwise given to the royal councils summoned for the purpose of giving legal decisions. It may be said that the form in which the notion of a constitutional corporate body has been worked out in the House of Commons has been that of conferring upon the highest legislative body certain judicial attributes exer-

[1] See *supra*, vol. ii., pp. 152-155.

cisable solely in the sphere of its autonomous enactments and regulations. The most obvious instance is the extension of the offence of refusing obedience to a court of law (contempt of court) to a refusal to obey the orders of the House of Commons; both offences are punished in the same way by the executive officers of the injured body. Sir Erskine May says that the power of commitment is the keystone of parliamentary privilege;[1] but, if we may venture to differ from so high an authority, it might be better to regard the extension to the House of Commons of the idea of a "contempt" as being the corner-stone of privilege. For thereby, according to English legal conceptions, is the House of Commons made into a court of law so far as is necessary to enable it to enforce the appearance of any party before it. The right of arrest as a sanction follows as a necessary consequence.

We have, then, two fundamental sources, out of which all the discipline and penal power of the House over its members have grown: they are the inclusion, from a legal point of view, of breach of parliamentary privilege in the notion of contempt of court, and the conception, thus fortified, of the House of Commons as a body with judicial powers in certain cases, *i.e.*, with a right of exercising a coercive power.

We may go still further, and say that to the same sources may be traced the whole formation of the House's order of business. The courts of law are now, and have always been, entitled to lay down their own rules as to the procedure to be adopted before them; in the same way the House of Commons, without the intervention of any other authority, regulates its own action by prescribing rules and forms. In a court of law both judge and parties are equally bound by the rules of the court;[2] so, too, each member of the House is bound by whatever the House as a whole has laid down to guide the form of parliamentary action.

The correctness of our way of looking at the matter is

[1] See *May*, "Parliamentary Practice," p. 69.

[2] English judicial procedure is largely governed by rules of this nature.

supported by a further consideration. A judicial tribunal can only arrive at its judgment in legal form when it has the power not only of forcing the parties before it to obey the laws, but also of compelling their obedience to the orders made by the court for the conduct and security of its proceedings. In like manner the House of Commons in its quasi-judicial capacity must be able to force its members to obey the orders of the Speaker; it must be in a position to keep its members in subjection to the rules of the order of business. On such obedience depends the possibility of formulating a corporate will. Such an act of volition can only be formed when each member, however much he may disagree with the conclusions of the majority, continues to feel himself a member of the body, and therefore respects all the forms and rules required for a corporate decision, and does nothing to make it impossible to comply with them rather looking upon the will of the whole, embodied in these rules and forms, as binding upon himself. The whole discipline and penal law of the House springs from this idea, and so also does the power of the Speaker over the members, at first but small and always derived from the powers of the House.

We have seen that modern rules have diverged widely from the traditional procedure by making the Speaker into a president with extensive powers. But even now the will of the House is the only legal foundation for any exercise of coercion upon a member: such increased authorities as have been entrusted to the Speaker in recent times are supported by the conception that they are one and all delegated to him by the House and exercised with the tacit and continuous consent of the Commons.

The limits to the penal powers of the House may now easily be seen. We have already pointed to the fact that the character of privilege belongs to all the provisions concerning the judicial jurisdiction of the House of Commons: it is therefore implied that this jurisdiction must be strictly confined to securing the privileges of the House. We have here a principle by which the subjection of members to the penal powers of the House may be tested. The only reason for coercive powers of discipline is the maintenance of the

existence of the House as a body and of the order necessary for the regular performance of its work. Beyond what is required for these purposes they do not and ought not to extend. Let us apply our test to the most severe measure which the House is entitled to take, the expulsion of a member. The famous case of John Wilkes taught the House the limits of its right to use so dangerous a power. It disclosed the fact that the House may expel a member, but is not able to prevent his re-election. His right to be returned as a member and the right of the electors to send any British subject not legally disqualified for election to the House of Commons as their representative both rest upon statute: a subsisting statute is an obstacle which even the House of Commons cannot surmount. Only Parliament as a whole, and that only by a formal act of parliament, can abrogate a legal right. It is not possible for one only of the factors in legislation to do so by its sole authority.

A further question is the extent of the limitation placed upon the action of Parliament by the common law and the ordinary courts of justice. From the nature of the case it was the claim of both Houses of Parliament to arrest and imprison persons who had committed breaches of privilege which gave rise to the earliest conflicts with the general law and the courts which administered it. The *Habeas Corpus* Act operates upon the Serjeant-at-arms as upon every officer who holds any person a prisoner; and it is an invariable custom for the Serjeant to make a return to a writ of *Habeas Corpus* by order of the House. The courts are, however, not entitled to investigate the reasons for an arrest, if it is in pursuance of a technically correct warrant by the Speaker, and if it is *primâ facie* clear that the imprisonment is for breach of privilege or for a contempt of the House.[1]

The existence of a parliamentary prison in the modern buildings is a visible sign that the right of the House of Commons to arrest and imprison its members in the event of their behaving contumaciously exists to-day as it did hundreds of years ago. Indeed in our own days the power

[1] See *May*, "Parliamentary Practice," p. 70, and the cases there referred to.

has actually been put into force : one of the incidents of the confused struggle round Mr. Bradlaugh's efforts to enter the House in face of the objections raised to his taking the oath on the score of his atheistical opinions, was his temporary confinement for disobedience to the orders of the House. With regard to the duration of a commitment there is one principle applicable to the imprisonment either of a member or of any other citizen ; the close of the session by dissolution or prorogation sets the prisoner unconditionally at liberty, if he has not been sooner released. It is unusual for commitment to be for a definite time.

When, therefore, the House found itself confronted with the problem of dealing with obstruction, that most terrible of foes to parliamentary order, it was not without resources for the conflict. In its penal regulations with their history of centuries and their unrelaxed maintenance it had a firm foundation upon which to build its defences. The memorable action of Speaker Brand on the 3rd of February 1881 in putting down obstruction, had therefore nothing of the character of a *coup d'état :* the form alone of his procedure was without precedent. As we have already pointed out, freedom of speech, like all other privileges of Parliament, is a right existing "for the common weal," not an absolute and abstract right. Misuse of the privilege was as much a breach of law as a continuing disturbance to the proceedings of any other court would have been. It is hardly paradoxical to say that conscious obstruction, with its floods of oratory or other boundless use of the rights of parliamentary initiative is itself a crime against freedom of speech, using that term in its historical and natural sense, to denote one of the most important means of constitutionally carrying out some of the highest duties of the state.[1] The sharp measures taken by the House of Commons for fighting obstruction were therefore in no sense innovations ; they were simply revivals of old legal principles having their roots in the most ancient and elementary con-

[1] It is just worth noting here that, when we have thus exhausted the subject of obstruction from the point of view of parliamentary law, much remains to be said from a political standpoint. We shall return to the subject in our concluding part.

ceptions of parliamentary government. In their applicability to new problems we may once more see the marvellous continuity of development shown by the fundamental institutions of English national life.

HISTORICAL NOTE

The main principles which in our days govern the order of debate all possess a venerable antiquity. In no other point can we more clearly see how early the indispensable bases of representative government were grasped in England, and with what instinctive sureness the rules, forms and conventions necessary for the corporate form of state work were framed. But a glance at the parliamentary reports which have come down to us from the sixteenth century will show so orderly a method of conducting the proceedings as to lead us to infer at once that the rules subsequently laid down in declarations as to practice were, in the majority of cases, real statements of old-established usage. In Hooker's reports we can already see the chief lines as to order in speaking clearly drawn. "If any man do speak unto a bill, and be out of his matter, he ought to be put in remembrance of the matter by the Speaker only, and by none other, and be willed to come to the matter."[1] "If, when a bill is read, divers do rise at one instant to speak to the same, and it cannot be discerned who rose first, then shall [the Speaker] appoint who shall speak."[2] "Every one of that House may have liberty of speech, and freely to utter, speak and declare his mind and opinion to any bill or question to be proposed. . . . Every person having voices in parliament hath free liberty of speech to speak his mind, opinion and judgment to any matter proposed; or of himself to propose any matter for the commodity of the prince and of the commonwealth: but having once spoken to any bill, he may speak no more for that time."[3] "Whensoever any person doth speak to any bill, he ought to stand up, and to be bareheaded, and then with all reverence, gravity and seemly speech, to declare his mind. But whensoever any bill shall be tried, either for allowances or to be rejected, then everyone ought to sit, because he is then as a judge."[4]

The parliament of 1604 was one which produced much fruit in rules as to debate. The leading principle of the English law of debate, that no member is to speak more than once on any single stage of a bill was strongly emphasized and extended to the case of a debate occupying more than one sitting, an event then beginning frequently to occur. It was also laid down that if two stand up to speak to a bill he against the bill was to be first heard.[5] The rules do not appear to have been always enforced, for Hatsell states that though Speaker Onslow had been tolerably strict in keeping to the orders, his successors were not so careful, and that the House was in consequence kept sitting in debate much longer than it had used to be.

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[1] *Mountmorres*, vol. i., p. 148.

[2] *Ibid.*, p. 118.

[3] *Ibid.*, pp. 116, 140.

[4] *Ibid.*, p. 149.

[5] Resolutions of 4th June 1604 and 23rd June 1604; *Hatsell*, "Precedents," vol. ii., 3rd edn., pp. 96, 97; 4th edn., pp. 102, 103.

The following quotations are only a selection from the rules laid down during the first half of the seventeenth century as to the conduct of debate. It will be seen how zealous the House was in that period to develop and maintain its rules on the subject:—

14 April 1604.—"That if any man speak impertinently, or besides the question in hand, it stands with the orders of the House for Mr. Speaker to interrupt him, and to know the pleasure of the House, whether they will further hear him."[1]

18 April 1604.—"*Qui digreditur a materia ad personam,* Mr. Speaker ought to suppress."[2]

26 April 1624.—Certain business ordered to be taken peremptorily at a given time, "and the Speaker to silence any, shall hinder it."[3]

An excellent rule, which can hardly be said to have been strictly enforced either in the House of Commons or any other parliament, runs—"If any superfluous motion or tedious speech be offered in the House, the party is to be directed and ordered by Mr. Speaker."[4]

The fundamental rule of parliamentary procedure that every debate must be brought to an end before a new one is begun was formulated in 1640, "declared that when a business is begun and in debate, if any man rise to speak to a new business any member may, but Mr. Speaker ought, to interrupt him."[5]

General regulations as to order in the House were already laid down in the Tudor and Stuart parliaments. In 1562 it was ordered "That every of this House, that cometh after the prayer, which shall begin at eight of the clock, shall pay fourpence to the poor men's box."[6]

A little later came an order, showing that the traditional courtesy of the House is based on formulated rules, "that Mr. Speaker and the residue of the House of the better sort of calling would always, at the rising of the House, depart and go forth in comely and civil sort for the reverence of the House in turning about with a low courtesy."[7] Rules of the kind seems to have been needed. One grim entry runs, "that all those which disturb the House by rushing into the entry before Mr. Speaker, at the rising of the House, shall be called to the bar."[8] During the period before the Civil War there are repeated orders "that none shall go out of the House, when it riseth, before Mr. Speaker."[9] Precise rules were laid down as to the behaviour of members in the House. Thus, in 1644, it was "ordered that no member do presume to go over the seats, or cross the House, or discourse or whisper during the sitting of the House to the disturbance of the House, or read any printed book in the House, and that such member as shall so offend shall pay twelve pence to the box for the use of the poor."[10] There are also prohibitions against standing in the entry or passage of the chamber.[11]

In the first Revolution parliaments discipline would appear to have been sadly relaxed. In 1693 it was thought necessary solemnly to declare

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[1] *House of Commons Journals,* vol. i., pp. 172, 946.
[2] *Ibid.*, pp. 177, 950.
[3] *Ibid.*, p. 691.
[4] *Ibid.*, pp. 175, 948.
[5] *Ibid.*, vol. ii., p. 25.
[6] *Ibid.*, vol. i., p. 64.
[7] *Ibid.*, vol. i., p. 118.
[8] *Ibid.*, vol. i., p. 541.
[9] *Ibid.*, vol. i., pp. 371, 834.
[10] *Ibid.*, vol. iv., p. 51.
[11] *Ibid.*, vol. i., p. 487 (1614); vol. ii., p. 318 (1641).

"To the end that all the debates in this House should be grave and orderly, as becomes so great an assembly; and that all interruptions should be prevented; be it ordered and declared, That no member of this House do presume to make any noise or disturbance whilst any member shall be orderly debating, or whilst any bill, order, or other matter shall be in reading or opening; and in case of such noise or disturbance that Mr. Speaker do call upon the member by name making such disturbance; and that every such person shall incur the displeasure and censure of this House."[1]

About the same time a resolution is recorded whereby the House undertook a revision of its rules on points of order.[2]

Finally, a set of rules gave power to the Speaker to reprimand members for the use of any unparliamentary or insulting expressions. Hatsell gives a list of them—prohibitions against the use of unmannerly language against the proceedings of the House, or against particular members, against using the King's name irreverently, against hissing or disturbing a member in his speech, &c.[3]

It would take up too much time to go into detail as to the manner in which the rules of discipline were enforced in particular cases; we must be satisfied with one or two instances.

On the 6th of August 1625 the Journal of the House informs us that a member who had said that "there had been speeches with invective bitterness and very unseasonable for the time" was ordered to the bar, and it was agreed "That he shall kneel at the bar, and the Speaker let him know that the House had taken just offence at his words, and therefore that he should stand committed to the Serjeant during the pleasure of the House." On submission, next day, he was released.[4]

On the 9th of May 1626 upon some words spoken by Dyett, one of the members, it was resolved "That the words have given just offence to the House, and that he be sequestered during its pleasure." On the 16th of November 1640 "A member disobeying the House, being several times commanded to withdraw, is called to the bar, and, on his knees, submits to censure."[5]

As an example of the way in which the right of commitment grew up we may cite the following order of the House (10th February 1642-3): "Declared, that neither the Court of King's Bench nor any other court hath any cognizance or jurisdiction touching the commitment of any person committed by order of both or either of the Houses of Parliament or by authority derived from both or either of the said Houses."[6]

There is an excellent account of the impression made upon a visitor in 1782 by the proceedings of the House in *Karl Philipp Moritz's* "Reisen eines Deutschen in England."

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[1] *House of Commons Journals*, vol. xi., p. 66.

[2] *Ibid.*, vol. ix., pp. 296, 297.

[3] *Hatsell*, "Precedents," vol. ii., 3rd edn., pp. 221–224; 4th edn., pp. 232–236.

[4] *Parry*, p. 303.

[5] *Ibid.*, pp. 310, 343.

[6] *House of Commons Journals*, vol. ii., p. 960.

PART X

The Process of Legislation

CHAPTER I

Discussion of Bills in the House of Commons [1]

A full account has already been given of bills so far as concerns their form and their classification and its history. In the present chapter it is proposed to describe what steps are necessary for converting a bill into an act of parliament. The first step is its introduction. The member who introduces a bill into the House is looked upon as its guardian through the subsequent stages of its career there, and has to attend to all the formalities required by the rules to be taken in its interests.[2]

We have frequently had occasion to notice that for some time past, and at the present day more than ever, private initiative in legislation has been reduced to narrow limits, and that the Government's all-embracing and incessant activity has taken up practically the whole field of alteration in the law. Most bills, then, are introduced by the Government, comparatively few by private members. In olden times bills were often drawn up by select committees: in such a case the chairman of the committee who reported the result of their work to the House was generally commissioned to bring in a bill carrying out the suggestions of the committee. Nothing of the kind ever takes place now. It is looked upon as the duty of the Government, if anybody's, to embody in a bill the result of an enquiry conducted by a committee, or more probably, at the present day, by a royal commission.

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[1] *May*, "Parliamentary Practice," pp. 458–521: *Manual*, pp. 131–160.

[2] The member is said to be "responsible for the bill" or "in charge of the bill."

A bill may be introduced either in pursuance of an order of the House or without an order. The former method, that of obtaining by special motion leave from the House to introduce a bill, is the old practice which has been in use for centuries. Under a standing order passed in 1888, popularly known as the "ten minutes rule" (Standing Order 11) an abbreviated mode of procedure is authorised for the introduction of bills. Under this rule the question is put after "brief explanatory statements" by the proposer and (in case of opposition) by one member who opposes. Introduction under the "ten minutes rule" is often adopted in the case of minor Government bills, when an explanation is considered desirable at the first stage, and occasionally it is used by private members. A further simplification was made on the 17th of February 1902 by an amendment of Standing Order 31, under which a member may introduce a bill by simply presenting it at the table, after previous notice, but without any order of the House.[1] This procedure, which was borrowed from the House of Lords, is now almost invariably adopted in the case of private members' bills and frequently in the case of departmental measures introduced by the Government. It is not available in cases where the rules require the previous permission of the House to be given in committee, that is to say, in the case of bills of which the main object is to impose a charge on the revenues of the United Kingdom or India, or upon the people.

If the old procedure be adopted the day upon which leave to introduce is to be asked must be specified by previous written notice. On the day appointed the motion is proposed, and is supported by the mover in a speech explaining the subject matter of the bill. There is no real debate unless there is actual opposition to leave being granted for the introduction of the bill. It is exceptional, save in the case of great Government measures, for the minister in charge to go into much detail in explaining to the House what it is being asked to admit to its deliberations. Even if a full summary is given, it is not customary to have a debate at this

[1] See the speech of Mr. A. J. Balfour (30th January 1902) and the Speaker's ruling, *Parliamentary Debates* (125), 1166.

stage, unless it is desired to prevent the bill even from being introduced. Of course no question of the kind arises on the great majority of bills. In consequence the preliminary stage generally takes but little time, and is attended with few difficulties. But from time to time the Opposition does take the opportunity of making an attack on some measure, or on the Government generally, when leave is asked to introduce a bill: if so a hostile amendment to the motion for leave is usually proposed; occasionally such motions have been followed by important political consequences.[1] If the motion is not treated in this very exceptional way the whole transaction is merely formal: leave is given and a day is fixed for introduction and first reading.

When leave is granted there is a certain old-fashioned formality about the actual introduction. The member in charge quits his seat and proceeds to the end of the chamber, where he takes his stand at the bar. The Speaker calls upon him by name, and thereupon he replies with the words "A bill, sir." He is then requested by the Speaker to "bring it up." He complies by coming forward to the table and handing his bill to the Clerk, who reads out the short title. The bill has then been "received" by the House and is in its possession. Even Government measures are introduced by the same process.[2]

After a bill has thus been received it is at once read the first time, and directions are given that it be printed. At the present day these are both matters of form only. Debates upon the formal questions as to first reading and upon printing have fallen into disuse, and under the present standing orders amendment and debate are both forbidden.

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[1] In 1852 Lord John Russell's cabinet fell upon an amendment to a motion introduced by the Government for leave to introduce a Militia bill. See *May*, pp. 462, 463, where several other instances are given.

[2] There is no necessity, nor indeed is it customary, for a member, when laying a bill on the table of the House, to present the actual text of his proposal. As a rule he proceeds as follows. When the bill is to be brought in he goes to the Public Bill office and obtains a form, called a "dummy bill," upon which is written the title under which it is to appear in the minutes, and the name or a list of the names of the member or members introducing it. This document is what is laid upon the table. The bill itself is afterwards handed in to the Public Bill office, which attends to the printing and distribution.

If a bill is introduced, under the new practice, without previous order by the House it is provided (by Standing Order 31) that when the bill is presented the title is to be read by the Clerk, and the bill is then to be considered as having been read a first time and is to be printed. In former times a bill used, upon first reading, actually to be read out by the Clerk, and then briefly to be explained by the Speaker: hence the expression, venerable in England and long since transferred to all Continental parliaments, the "reading" of a bill. Reading at length has long since been given up: now it is enough for the Clerk to read out the title; requests made for obstructive purposes, to have bills read at length have been summarily rejected by the Speaker.

As soon as the bill has been read a first time the House orders it to be read a second time and the member in charge fixes a day for second reading. The bill then becomes an order of the day for the date named by him, and for any subsequent day to which it may be deferred, if not then disposed of, until the question of second reading is decided. "The second reading," says May, "is the most important stage through which the bill is required to pass; for its whole principle is then at issue, and is affirmed or denied by a vote of the House; though it is not regular on this occasion to discuss, in detail, its several clauses . . . . The member who has charge of the bill moves 'That the bill be now read a second time'; and takes this opportunity of enforcing its merits." The discussion ought to be confined to matters of principle and should not be extended to a criticism of the provisions of other bills before the House relating to the same subject. In former days the House was sometimes addressed from the bar by counsel on behalf of persons specially interested in supporting or opposing a bill: when this course was taken, it was usually at the time of the second reading that they appeared. On general principles public bills ought only to be discussed by members, who ought only to urge considerations of public expediency: interests peculiar to individuals ought to be brought to the notice of the House by means of petitions addressed to it. It was at one time, however, not unusual to allow private

interests to be represented either by the persons specially affected or by their counsel. The practice became obsolete about the middle of last century.[1]

It is not customary to express opposition to a bill by a simple negative vote upon the motion for second reading: usage dictates another course. The general practice is to move a formal amendment to omit the word "now" and to add "this day six months" or "three months," so that the motion would become "That this bill be read a second time this day six months." The assumption is that in six months, or three months, the session will be over. Though the session may actually last beyond the time thus fixed, the assumption is acted upon: a bill postponed for three or six months is not read a second time when the period is completed, even if it expires while the House is still sitting.[2] The House immediately after first reading fixed the day for the second reading, and when the matter came before it, instead of acting upon its former order, appointed a more distant date: to revive the order would be practically interfering with the decision of the House. In any case, whatever may be the technical ground for so holding, the acceptance of such an amendment is deemed to be a total rejection of the bill and the House sees no more of it.

There are other, less absolute, methods of preventing the immediate second reading of a bill. An amendment may be moved laying down some principle opposed to the policy embodied in the bill, or expressing a wish for the establishment of certain facts before the bill is read a second time, or directing some other steps to be taken, the effect of which is to postpone the second reading. The effect of carrying such an amendment is quite different to that of postponing the second reading to a distant date. No more is decided than that the second reading is not

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[1] See *May*, "Parliamentary Practice," pp. 471, 476; *Clifford*, "History of Private Bill Legislation," vol. ii., p. 861.

[2] The form is meant to be courteous to the mover, it being felt to be more polite to avoid a direct negative. The more vigorous manners of earlier days in Parliament led to an opposite mode of treatment; special motions were allowed giving full expression to the hostility felt towards a bill, such for instance as that it be rejected, torn, or tossed over the table.

to take place on the day originally fixed; there is nothing to prevent the bill being offered for second reading on a later day and then being, by order of the House, so read. In the case of a Government measure the political consequence of an amendment of this kind moved on behalf of the Opposition is usually intended to be the disappearance of the bill, as the result of its acceptance by the House would probably be the withdrawal of the bill. But the consequences may very well be still more far-reaching, inasmuch as the vote may be tantamount to a vote of want of confidence in the Ministry responsible for the measure. A bill is considered to be fully dealt with if, upon the order of the day for its second reading being read, the member in charge does not move that the bill be read a second time. It becomes a "dropped order," and disappears from the notice paper.

The regular course, however, at all events in the case of Government measures, is the acceptance of the order for second reading after full discussion of the principle of the bill. As soon as the second reading has taken place the Speaker is supposed to put the question, "That this bill be committed." But as this motion is purely formal the question is not, in fact, put, and the Speaker merely asks the member in charge of the bill to name a day for the committee.[1] On the day so named, as soon as the order of the day for the committee stage is reached, the Speaker leaves the chair without putting any question, and the committee discussion begins. The only exception to this rule is that an instruction to the committee may be moved; if so the instruction must be dealt with before the committee begins its work.[2] But at the present time it is not often that this happens. Standing Order 34 gives a permanent instruction to all committees of the whole House—

> that they have power to make such amendments [in the bill] as they shall think fit, provided they be relevant to the subject matter of the bill; but that if any such amendments shall not be within the title of the bill, they do amend the title accordingly, and do report the same specially to the House.

[1] A separate motion is needed if the bill is to be referred to a select committee or a standing committee. But see Supplementary Chapter.

[2] See Standing Order 51.

It follows that most instructions proposed by members are unnecessary and therefore are ruled out of order by the Speaker. Thus the range of special instructions is narrowly limited.[1] All instructions to a committee of the whole House or to a standing committee must be permissive in form, "That the committee have the power, etc." Mandatory instructions are not admissible.

In earlier days the House of Commons sometimes used to dispense with the committee stage;[2] and even now the House of Lords occasionally omits it for the purpose of accelerating the passage of a bill. The House of Commons never does so at the present day. If it is desired to pass a bill quickly, recourse is had to suspension of the standing orders for the special case.

The work of a committee of the whole House is, as before stated, the detailed discussion of the bill in free debate, the amendment of its different parts and the settlement, in as final a form as possible, of its text. The fiction is maintained that though the committee consists of the whole of the members, it is still a committee, and therefore subordinate to the House; the text of the bill as referred to the committee forms its mandate, its commission, and indicates the limits beyond which it is forbidden to travel. It would therefore in principle be out of order to discuss any subject outside the title and preamble. In the course of the nineteenth century difficulties on this score were constantly arising and increasingly interfered with com-

[1] The Speaker on the 5th of May 1893 gave a special ruling in which he clearly summarised the principles governing the proposal of instructions. "The principles which guide and limit the system of instructions on going into committee may be thus stated: First, an instruction must empower the committee to do something which the committee is not otherwise empowered to do. Secondly, the purpose of the instruction must be supplementary and ancillary to the purpose of the bill, and must fall within the general scope and framework of the bill. Thirdly, it is irregular to introduce into a bill, by instruction to the committee, a subject which should properly form the substance of a distinct measure, having regard to usage and the general practice of enacting distinct statutes for distinct branches of law." (*Manual*, p. 140.) See *May*, "Parliamentary Practice," p. 480.

[2] *May*, "Parliamentary Practice," p. 478, where instances are given, some of them being constitutional acts of the greatest importance, *e.g.*, the bill recognising King William and Queen Mary (9th April 1690).

mittee work. Detailed discussion of a bill was asked from a committee, and the title was to curb any tendency to stray beyond the subject matter referred. How could they do their work properly when considerations of form prevented their attempting a complete solution of the legislative problem before them? The defect in procedure has now been cured by the adoption of the permanent instruction quoted above from Standing Order 34. There is now free scope for all proper alterations in the text of a bill during the stage of committee.

Discussion of a bill in committee is taken section by section: each section is taken in subsections, these again in lines, and the lines are considered word by word. The order given by the text of the bill is adopted and the amendments and sub-amendments are discussed and voted upon in the succession so determined. There is, of course, nothing to prevent the committee from changing the order by a vote; any clauses may be postponed, or the same may be done for a whole part of a bill. Any debate upon such a motion must be strictly confined to the expediency of postponement.

We may, then, say that the centre of gravity of the whole legislative action of the House of Commons lies in the region of the work of committee of the whole House. It is in committee that the fate of a bill is really decided; its ultimate form is there settled in the clash of parties and opinions or by the compromises made between them. In this stage debate is quite free: members may speak to each question as often as necessary.[1] Speeches in committee are generally short, to the point, businesslike and simple. Their manner is almost conversational and seldom tinged with rhetoric. The object of committee debate is to arrive at decisions upon special questions of substance and to settle the essential points of detail one by one. The aim of what is said is to *convince*, not to gain a mere debating advantage. Committee therefore offers to individual members the best

[1] The rule that speakers must address the chairman and not their fellow members applies as strictly to debate in committee as at other times.

scope for display of expert knowledge, untiring industry, capacity for routine work and ready action: many a new member makes his reputation there, especially a man whose claims to foremost rank in Parliament are based upon ability and knowledge of political and administrative business rather than on brilliance of oratorical display. On a bill of first-rate importance the committee stage may last for weeks: if it is one which touches the serious party differences in the House, the advocacy of the bill and the attack upon it, and, last but not least, the arrangement of one of the frequent compromises made, give opportunities for exercising all the forces of political life and parliamentary strategy. The principal form in which the conflict of one opinion with another, of the different party aims, finds expression is amendment: in formulating amendments which will divide the forces of the opposite party, in devising difficulties for the Government, in finding ingenious compromises acceptable to both sides, every member has his chance of rendering real service to his party or his country, perhaps even to both at the same time.

The rules provide, of course, for the application of the closure to debate in committee as well as in the House. It may be moved and carried upon every question before the committee. But its use in committee, except sparingly, is regarded as unwarrantable conduct on the part of the majority. All opinions ought here to have an opportunity of free expression. The form in which this opportunity is taken is that of motions to amend. The chair has, therefore, in the committee stage its most weighty influence through its power of ruling amendments out of order, and thus excluding them from discussion. In exercising his power the chairman is, of course, bound by all the general principles before stated as to the introduction and treatment of subsidiary motions. An amendment is irregular if it is not relevant to the bill before the committee, or if it forms part of an amendment previously rejected, or if it is inconsistent with the whole policy of the bill, or again if it is merely ironical. The requirement of relevancy extends to an insistence upon each amendment being related to the particular clause in connection with which it is moved. A study of

the practice of the last twenty years will undoubtedly lead to the conclusion that the discretion of the chair has been materially increasing in this particular direction: the precedents formed show that the chairman is not now bound to put a strict interpretation on his powers.[1]

There are certain special rules as to amendments moved in the course of the debate upon a bill. The most important may be enumerated as follows: The discussion is conducted clause by clause; amendments must be moved and put from the chair in the order indicated by the wording of the text. If no amendment is moved to a clause the question to be put is, "That this clause stand part of the bill." If an amendment is carried, or if several are carried, the final question upon the clause is, "That this clause, as amended, stand part of the bill."[2] Amendments to bills do not need prior notice; frequently they are moved and formulated in the course of the debate: it is, however, customary to give notice of all important amendments. The notice paper always states in proper order the amendments of which notice has been given, priority being always granted *ceteris paribus* to those proposed by the member in charge of the bill.

It is irregular to move by way of amendment to omit a whole clause and to substitute another. Such a proposal is equivalent to proposing a new clause. The rules insist upon such a substitution being carried out in two stages: the old clause may be struck out first and the new one inserted afterwards. But the insertion of a new clause may only be made after the whole text has been gone through and all amendments thereto disposed of. The member in charge has again priority in proposing new clauses. The procedure upon a new clause is a copy in miniature of that upon a bill. It is laid before the House and formally read a first time without debate: then it is moved that the clause be

[1] Instances may be found in the course of the discussions upon any of the large or hotly-contested measures of the last twenty years, for example the Parish Councils bill of 1893, the Home Rule bill of 1893, and the recent Education and Licensing bills of 1902.

[2] It is, however, permissible when there appear to be no amendments to several successive clauses, to put the question upon such clauses *en bloc*, "that clauses . . to . . stand part of the bill."

read a second time, and its principle is debated. No amendments to the new clause may be moved till it has been read a second time. When any amendments have been dealt with there follows what corresponds to third reading, namely, a question "that the clause (or clauses) be added to the bill." The whole process, as just stated, takes place after the text of the bill and all amendments have been considered. When all new clauses have been disposed of the preamble (if any) is discussed : of late, it has been unusual to have any preamble (Standing Order 35). Schedules, too, if there are any, are usually taken after new clauses.[1]

The last proceeding in committee, under the present usage, is the amendment, if required, of the title. The recognised principle now is that the title and preamble of a bill are subordinate to the subject matter of the clauses as settled, and not *vice versâ*.

We have already remarked that the existing order of business gives to a committee of the whole House complete authority over a bill referred to it. By using its powers to their full extent it may so alter a bill as to leave no trace of the original wording. The canon, however, has been laid down, and applied by the Speaker in quite recent instances, that it is not proper to ignore the transformation of a bill by a committee into what is really a new bill. The correct course to adopt in such an event is to withdraw the bill and to introduce the measure, as altered by the committee, as a new bill, beginning again with the first reading.

Another method of introducing extensive amendments into a bill is occasionally made use of, to meet the case of the Government, or a private member in charge of a bill, being desirous of re-shaping a bill which has already been introduced. Committal *pro formâ* is the device employed. The bill is referred to a committee of the whole House, the amendments are introduced and passed without discussion or division. The chairman immediately reports to the House the bill as amended, an order is made for reprinting

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[1] When a measure is large and has been much amended it is customary to reprint it from time to time, as amended up to the time of reprinting, for convenience of reference.

the bill as altered, and it is referred again to the committee for real discussion.

At any sitting a committee lasts as long as the rules permit the sitting to continue, unless the debate is cut short by an adjournment. Thus, in the case of long bills, when the time fixed by rule arrives, or, if the House think fit, earlier, a motion is made that the chairman of the committee report progress to the House and ask for leave to sit again. The report and request, of course, are pure formalities, and serve only to secure the reappearance of the committee upon the programme for the next sitting or one of the next sittings. On the day to which it has been deferred the committee is resumed without further formality; the Speaker leaves the chair when the order of the day for the committee is read without putting any question.[1] When the discussion of a bill is finished the chairman no longer reports progress, but reports the bill itself, and makes no request for leave to sit again. If, again, the discussion of a bill in committee is stopped by a simple motion to end the committee without any instruction to the chairman to ask for leave to sit again, the bill under consideration drops. A simple order of the House is, however, enough to reinstate it, and, if so revived the committee begins again just where the discussion was cut short on the former occasion.

When the title has been settled the committee stage terminates. The chairman then puts the question to the committee "that I report this bill to the House," or, if amendments have been made, "that I report this bill as amended to the House." On the carrying of this motion the chairman vacates the chair without further question, the Speaker is recalled, and the House resumes.

The "report stage" follows, unless no amendment has been made in committee. If the bill is reported in the same form as it had when referred, the report of the commitee is followed at once by the third reading. In the case of amended bills an additional stage is necessary. The chairman approaches the Speaker's chair and informs him

[1] Standing Order 32.

"that the committee have gone through the bill and made certain amendments thereunto, and that the committee have ordered him to report the bill." It is not usual for any debate to take place on this report: the member in charge is simply invited by the Speaker to name a day for the consideration of the bill as amended. On the day so fixed the House begins to discuss the bill in the new shape given to it by the committee. When the order of the day is read it is not in order for anyone save the member in charge to move a dilatory amendment: he is allowed to postpone the consideration of the bill, or he may move to recommit it.

The regular procedure, apart from such exceptional cases, is to enter upon the discussion of the result of the committee's work: the whole bill is before the House. There is a fresh opportunity for moving new clauses or amendments relevant to the bill. A new clause may not be moved without notice.[1] The procedure is similar to that on moving a new clause in committee. New clauses or amendments creating a charge on the public revenue or imposing any tax, rate or other burden on the people may not be moved at this stage: if it is desired to alter a bill in such a way it must be recommitted. Nor is it permissible to move amendments which could not have been proposed in committee without an instruction from the House (Standing Order 41). The report stage is, consequently, short as a rule, and is, in the main, confined to a review of the changes made by amendment in committee.[2] The report stage may terminate with a reference back to the committee (recommittal), either generally or with respect to some special part of the bill. Again, it may be recommitted with an instruction to the committee that they have power to make some particular amendment, or for the purpose of considering certain new clauses or

[1] Standing Order 38. Discussion of such new clauses has priority over amendments.

[2] The procedure in the case of bills which have been before standing committees is exactly the same. The only distinction is that all bills reported from a standing committee, whether amended or not, are considered on report without question put. Under an amendment to the standing orders passed in 1901 such bills may, after having been considered on report, be forthwith read a third time. See Supplementary Chapter.

amendments. Bills may be recommitted more than once: and the completion of a bill may be further postponed by an order referring it, after amendment in a committee of the whole House and report, to a further committee process at the hands of a select committee.[1] In the last-named case a third recommittal is necessary: when it is reported by the select committee it must once more go to a committee of the whole House before it is allowed to be read a third time.

Recommittal is, however, a rare exception. The usual course, after a bill has passed through the report stage, and has been accepted by the House in the committee's form, with or without amendment, is to take the third reading. When the motion is made "that the bill be now read a third time," the same kind of formal amendments are permissible as on the second reading, *i.e.*, amendments postponing it for three or six months. In the House of Lords it is possible to move substantive amendments on third reading; but in the Commons only grammatical and verbal amendments may be made. *It is no longer in order to make material alterations.*[2] In case of urgent necessity the order for third reading may be discharged and the bill recommitted. This may be done without interrupting the proceedings: the bill may be recommitted, amended in committee, reported, considered on report and read a third time at the one sitting by simple orders of the House. After third reading the title of the bill may, if necessary, be amended so as to make it conform to the contents of the bill.

There are no regulations in the House of Commons which prescribe definite intervals between the various stages of a bill; the only rule is the general rule of practice that, subject to certain exceptions, two stages are not to be taken in the same sitting. The House of Lords has a standing order (No. 39) expressly laying down this regulation: if, therefore, the Lords are anxious to pass a bill with unusual expedition they have to suspend their standing order; in the Commons the same result is achieved without any suspension.

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[1] If a bill is recommitted for a limited purpose the proceedings in committee must be limited to that purpose. (*Manual*, p. 152.)

[2] Standing Order 42.

The different stages may be moved and several, or indeed all, stages passed at one sitting. It is possible, in case of emergency, to pass a bill through both Houses and to obtain the royal assent in a single day.[1]

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[1] For examples of such occurrences see *May*, "Parliamentary Practice," p. 516, notes 2 and 3. For instance, the suspension of the Habeas Corpus Act for Ireland in 1866, during the Fenian troubles, was proposed and read three times in both houses and received the royal assent, all on the same day. The Explosive Substances bill (1883), aimed at the Irish dynamiters, was also passed by both Houses in one day: the royal assent was given the next day.

CHAPTER II

The Share of the House of Lords in Legislation

WHEN a bill has been read for the third time in the House of Commons it has no further stages to pass through. The older practice knew one subsequent stage: a motion had to be proposed and carried that the bill do pass. During the nineteenth century, however, this custom fell out of use and now only survives in the formula entered in the journal of the House, viz., "The bill was read the third time and passed."[1]

During the whole period of its discussion the bill remains in the custody of the Clerk of the House. He is charged with keeping a record of each amendment. When a bill is passed by the Commons it must be sent up to the Lords: one of the clerks at the table takes it and hands it to one of the clerks of the House of Lords. The form made use of is that of Message: bills which originate in the House of Lords are sent down to the Commons by a like procedure. The process of first reading of a bill sent up to the Lords is purely formal. But every bill coming from the Commons to the Lords must, under Standing Order 38 (House of Lords), be set down for second reading on the motion of some peer within twelve sitting days; if no peer gives notice of motion for second reading within this period the bill is treated as struck out of the business for consideration and can only be restored by a notice of eight sitting days. The House of Lords has here a special method of dealing in a negative sense with the proposals of the Commons. But politically speaking it is not often available: such a furtive mode of opposing the wishes of

[1] In the House of Lords the question "that this bill do pass" is still put.

the House of Commons would be too serious a failure in the traditional courtesy of the two Houses one towards the other.

The discussion of a bill follows almost exactly the same course in the House of Lords as in the House of Commons; there are but few differences worthy of remark, and we have already in passing noted such of them as are material. Of course the procedure in the Commons in the case of a bill sent from the Lords is the same as in the case of a bill originally introduced in the Lower House, with the exception of the first two short and formal stages, those of asking leave to introduce and of first reading. The same is true, *vice versâ*, of bills sent by the Commons to the Lords.

To bring about an act of parliament it is necessary to arrive at perfect conformity between the two Houses as to the text of a bill. Hence in either case, whether a bill was originally introduced into the House of Commons or into the House of Lords, there is always the possibility of a supplementary procedure, directed to reconciling any divergencies between the two Houses as to the wording. The House of Commons may make amendments to a Lords' bill giving it a new shape, or the additions and alterations of the Lords may transform a bill sent up by the Commons. In what follows we may confine ourselves to the vastly more important case of the two, the alteration by the Lords of a bill which had its origin in the Commons. As already stated, all the most important and far-reaching measures considered by Parliament are first introduced in the House of Commons.

When alterations are made by the Lords in a bill passed on to them from the Commons it is returned, by message, along with the amendments adopted in the Upper House. The rules of the House of Commons provide that in such case the amendments are, as a rule, to be set down for consideration on some future day: if they are merely formal or non-contentious they may be considered forthwith.[1] In

[1] The Speaker decides whether this is the case or not.

an emergency it would be proper to interrupt the business in hand and to enter upon an immediate consideration of the Lords' amendments.

The method of treating the alterations is analogous to that adopted upon the second and third reading of a bill. When the order of the day for considering the Lords' amendments is read a question is put "That the Lords' amendments be now taken into consideration." It is in order to move, by way of abandoning the attempt to come to terms, that the consideration of the amendments be deferred for three or six months or that the bill be laid aside. If no such proposal is made the Clerk at the table reads the amendments one by one and the Speaker puts the question "that the House do agree (or disagree) with the Lords in the said amendment," according to the motion moved. The debate is strictly limited to the matter of the amendment before the House. As a rule each amendment is put separately and voted upon.

The procedure in bringing about exact conformity between the two Houses may be lengthened out by the Commons accepting part only of the Lords' amendments or making amendments of their own to them. There is nothing to prevent their doing so.[1] And either House in considering the alterations made by the other may suggest a return to the original wording. Unless, however, the bill is entirely to be abandoned one House must ultimately agree to the proposals made by the other.

At times, therefore, there is a succession of alterations first by one House and then by the other before a common text is agreed upon. During the sending of a bill backwards and forwards it is not admissible for either House to withdraw its assent to clauses which it has once accepted.[2]

If the House of Commons is not prepared to give an unconditional assent to alterations made by the Lords, the

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[1] The amendments must be strictly relevant to the Lords' alterations before the House.

[2] The right of the Lords to amend bills sent up by the Commons is subject to an important constitutional limitation in the case of money bills. See Part xi.

bill may be wholly abandoned, by the use of the formula of adjourning the consideration of the Lords' amendments for three or six months: but, if this is not wished for, there are two ways open for leading up to an agreement. In the first place a message may be prepared by a select committee appointed for the purpose and sent to the House of Lords in the form of a memorandum of reasons for disagreeing with the proposals made. Or again, a request for a conference between the two Houses may be made. These are the two modes of proceeding for reconciling differences. Attempts are made by means of personal discussion to arrive at a compromise: in most cases they are crowned with success; if not, the bill is lost for the session. The regulations applicable to such attempts at reconciliation by message and conference have already been described with sufficient fulness.[1]

The correspondence between the two Houses as to the handing over of bills from one to the other is conducted in *formulæ* expressed in old Law French. When a bill has passed the House of Commons the Clerk of the House writes upon the first page *Soit baillé aux seigneurs*. If the Lords make amendments the bill is returned to the Commons with an indorsement by the Clerk of the Parliaments *A ceste bille avesque des amendemens les seigneurs sont assentus*. If the Commons agree to the amendments the Clerk of the Commons sends back the bill inscribed *A ces amendemens les communes sont assentus*. Bills are communicated by the Lords to the Commons with similar indorsements. If,

[1] These traditional forms of reconciling differences of opinion between the majorities in the two Houses are at the present day practically ineffective for bringing about a compromise between Lords and Commons in the case of great political questions. When such a difficulty arises the real negotiations are conducted unofficially by the party leaders on both sides. There is then an opportunity for the wearer of the crown to exercise his personal influence with advantage. *Mr. John Morley* ("Life of W. E. Gladstone," vol. ii., pp. 266–280) gives a most interesting account, based on letters written by the persons concerned, of the formation of such a compromise in 1869 as to the bill for disestablishing the Irish Church, which had originally been opposed by the House of Lords with great energy.

however, one House does not agree to amendments made by the other, the disagreement is not communicated by an indorsement: a message is sent. When a final agreement is reached the bill is retained by the House of Lords, bills originating in the Lords and agreed to by the Commons being also returned to the House of Lords. For this House, acting by its chief clerical officer, the Clerk of the Parliaments, is the custodian of bills which have passed both Houses and only await the royal assent. Money bills are an exception to the rule: they are always brought direct by the Speaker for royal assent.

Reference may, in conclusion, be made to a special procedure which has occasionally been adopted with the object of saving so much of a bill as is agreed upon by both Houses, when there are insuperable obstacles to agreement on the whole bill. Sometimes when the Lords have substantially amended a Commons' bill in committee they have postponed the later stages of the bill as an intimation to the Commons that they did not agree with the proposals of the Commons, but were anxious to avoid a direct conflict. If the amendments have been such as the Commons were disposed to accept they have appointed a committee to inspect the Lords' journals. On receiving the committee's report the House of Commons has ordered a new bill to be brought in, with provisions conforming to the amendments made by the Lords. Such a bill would probably have the same title as the bill which it replaces and its passage through the Commons, and of course through the Lords also, would usually be tolerably smooth.

Strictly speaking, this procedure (which has not been adopted in recent times) is a breach of the fundamental principle that no matter may be twice offered in the same session: but the usage of the House of Commons has permitted of its infringement in the special circumstances. The Lords may, but seldom do, avail themselves of the power of beginning again with a bill on the strength of an inspection of the Commons' journals. The procedure altogether is only available in the case of bills upon which the two Houses differ only upon details. Reintroduction

in the same session of a bill which has been rejected or "postponed for six months" by the other House is quite inadmissible. The only course available is a sudden prorogation and the immediate opening of a new session. This somewhat heroic measure was repeatedly adopted during the eighteenth and nineteenth centuries.[1]

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[1] For instance, in 1831, to enable the Reform bill to be brought in for a third time, Parliament was prorogued from the 20th October till the 6th December. At one time there was a rule forbidding the introduction of a bill containing provisions opposed to those of a bill already passed in the same session. The rule was expressly repealed by the act 13 & 14 Vict. c. 21 (1850). In 1721 the existence of the rule brought about the close of a session and the opening of a new one, in order to make an urgent alteration in the South Sea Company acts. See *House of Commons Journals*, vol. xix., p. 640.

CHAPTER III

Royal Assent to Bills[1]

THE only stage remaining to be described is that of the royal assent. It is not intended here to trace the history or to investigate in detail the constitutional meaning of the right of the Crown to a share in the important function of legislation, so as to arrive at a full understanding of the place of the Crown in the constitution. What follows must be confined to a few general observations.

At the present day, no less than five hundred years ago, a legislative project approved by both Houses of Parliament is inoperative as law until it receives the formal sanction of the Crown. It is, however, equally certain that, under the living constitution of to-day, the royal assent to such a bill cannot be withheld. Neither the Crown's right of giving assent nor the duty incumbent on the Crown to approve of bills sent up by Parliament is more than the other an essential part of British constitutional law. It would not further our present purpose to enquire how it has come about that the royal assent is still a necessary formality and is at the same time nothing more than a formality. It must be enough to point to the fact that from the year 1707, when Queen Anne exercised her veto upon a bill which had been passed by both Houses, down to the present day, a period of two full centuries, no such occurrence as a refusal of the kind has ever taken place. Certain historical causes of an accidental kind must not be overlooked; the fact that the new dynasty was a foreign one, and the smallness of the personal interest in politics, or at all events the smallness of the personal influence upon politics, of the first two Hanoverian Kings contributed to the result; but the main reason was the irresistible development of the constitution under the influence of the principle of parliamentary cabinet government. It swept away

[1] *May*, "Parliamentary Practice," pp. 510–515.

from the Sovereign all independent share in legislation so far as it was in any way opposed to the will expressed by a concurrence of the two Houses of Parliament. It is remarkable that modern German teachers of constitutional law should be so fond of discussing the probability of a King of Great Britain refusing his assent to a bill; such speculations are the idlest formalistic triflings of a doctrinaire casuistry; they find no place in English constitutional law or in English treatises on the subject. It is, of course, conceivable that a king might have a desire to exercise some independent influence on legislation; he might therefore try to veto some unwelcome bill, and thereby bring the machinery of British legislation to a standstill. It is possible, inasmuch as no creature endowed with a will of its own can be relied upon to fulfil a prophecy as to the direction in which that will will lead it. A British King might, therefore, rebel against the function imposed upon him by constitutional law of giving his assent to a bill passed by Parliament. Such action would be revolutionary, just as much as a refusal by the House of Commons to vote supplies, or to submit a Speaker for the royal approval, or to assemble when summoned by royal proclamation. If we are going to imagine all things that might "possibly" take place, any of these events might come to pass. But, from the standpoint of British law as it actually exists, any one of them would be an act of revolution, and to apply the test of "juristic" criticism to them is *a priori* absurd. The Crown has allowed its veto upon legislation by the two Houses to lie dormant for two hundred years till it has become a mere form; the British constitution has meanwhile been built up on this, among other facts, as a foundation, and has rendered wholly inadmissible any assumption of the Sovereign to legislative independence of the will of Parliament. To treat such a claim as tenable is to imagine the possibility of a most serious, nay revolutionary, reaction in the framework of the constitution. To give it the faintest shadow of possibility would need very different reasons from those of the German teachers of constitutional law, who keep speaking of the "resumption of effective royal government" in England. And such different reasons are not likely to

be adduced by anyone acquainted with English politics in the eighteenth and nineteenth centuries, or with English constitutional law as it exists at the present day.

Turning to the form in which the royal assent is given we find that the old style has been piously preserved. All bills are, as stated above, in the custody of the Clerk of the Parliaments. He draws up in duplicate a list of the titles of all bills ready for receiving assent. One of the lists is laid before the King prior to his giving his assent, the other is handed to the Clerk of the Crown for the purpose of insertion in the authority to the Royal Commissioners to declare the royal assent. The formal act of giving assent may be performed either by the King in person at the end of the session or—according to a practice begun in Henry VIII's time—either during or at the end of the session by special commissioners appointed under the great seal. If the King appears in person, he comes to the House of Lords at a solemn assembly, the peers being in their robes and the great officers of state in their court uniforms. The King and Queen, surrounded by their court, sit upon their thrones. The King sends the messenger of the House of Lords, the "Gentleman Usher of the Black Rod," to the House of Commons to signify that their presence is desired, and the Speaker and other members at once betake themselves to the Lords' bar. The Clerk of the Crown reads the titles of the bills : the Clerk of the Parliaments makes an obeisance to the throne, and signifies his Majesty's assent by pronouncing the appropriate formula, and the King confirms it by an inclination of his head.

If assent is given by commissioners the commission is signed by the King himself with his own hand, and attested by the Clerk of the Crown in Chancery. The commissioners are three or more lords, who appear in ceremonial costume in the House of Lords, and take their places on a seat placed below the throne, but above the woolsack on which the Chancellor sits. The Commons are then invited to attend, and the commission is read in their presence. The titles of the bills are read out by the Clerk of the Crown, and the royal assent is signified by the Clerk of the Parliaments in Norman French. The formula is different

for different classes of bills. For a public bill it is "*Le roy* (*la reyne*) *le veult*": for a private bill "*Soit fait comme il est desiré.*" Grants of money, *i.e.*, supply bills, are not in the custody of the Clerk of the Parliaments: they are handed in by the Speaker immediately before assent is given, and receive the royal assent before any others. The royal approval to such a bill is expressed in the words "*Le roy* (*la reyne*) *remercie ses bons sujets, accepte leur benevolence, et ainsi le veult.*"

In former days when the King or Queen was entitled under the constitution of the time to refuse assent to a bill the formula by which the veto was expressed used to run "*Le roy* (*la reyne*) *s'avisera.*"

HISTORICAL NOTE

The origin of legislative procedure by bill has already been sufficiently described: we have learnt that it may be traced back to the early part of the fifteenth century. From that time, or at all events from the middle of the sixteenth century, it has been continuous and substantially unchanged to the present day. Even the reforms of the nineteenth century made no essential change in the method of deliberation upon bills; they only did away with some of the divisions, the number of which had come to be felt intolerable, and with several merely formal stages. It is impossible to read the accounts of the procedure upon bills given by D'Ewes, Hooker, and Sir Thomas Smith without feeling some astonishment at the antiquity of the complete apparatus of readings and committee discussion, with all their connected formalities. The little treatise by Hakewel gives the most careful and detailed account of "the manner and method how laws are enacted in Parliament by passing of bills." We will endeavour to follow the chief features of the process as reported by him.

"The Clerk," says Hakewel, "being usually directed by the Speaker (but sometimes by the House) what bill to read, with a loud and distinct voice first readeth the title of the bill, and then (after a little pause) the bill itself."[1] In his time, therefore, the reading of a bill was not a mere form: it was the way in which the House first learned the contents of a bill. There were no printed copies of the bill; there were indeed no arrangements for multiplying parliamentary papers: after a bill was introduced it was handed by the Speaker to the Clerk, who retained it in his custody for the remainder of the proceedings. The procedure on first reading was as follows. After the Clerk had read the bill, as above described, "he delivereth the same to the Speaker, who standeth up uncovered and (holding the bill) saith, 'This bill is thus intituled,' and then readeth the title, which done, he openeth to the House the substance of the bill, which he doth either trusting to his memory, or using

[1] *Hakewel*, pp. 137–160.

the help, or altogether the reading of his breviat. . . . When he hath opened the effect of the bill, he declareth to the House that it is 'the first reading of the bill' and delivereth the same again to the clerk." The same course is adopted on the other readings: if a bill has been much altered in committee the Speaker sometimes reads the bill itself. "At the first reading of the bill it is not the course for any man to speak to it, but rather to consider of it, and to take time till the second reading." This practice is still observed in the present day. Hakewel adds, however, that it was not unprecedented for bills to be debated on first reading, "where the matter of the bill is apparently inconvenient and hurtful to the common-weal, and so not fitting to trouble the House any longer." If any question is put upon the first reading it is not the question whether the bill is to be read, but whether it shall be rejected.

Bills coming from the Lords and approved on first reading are treated differently: the question that they should be read a second time is the first put; if that is denied the question whether the bill be rejected follows. As a rule second readings are postponed till two or three days after the first, but this is not a rigid rule. "Neither is it without precedent," says Hakewel, "that a bill has been thrice read and passed in the same day."[1]

The regular stage next after second reading, according to Hakewel, was that of commitment. Only in cases where this stage was omitted was it permissible to move at once for ingrossment.[2] "When the committees have fully resolved touching the bill, and the amendments thereof, one of them by the consent of all the rest ought to make report thereof to the House, opening the substance of the things amended, and the reasons thereof; which done, he ought to bring the bill so amended to the clerk, and to stand by the clerk all the while that the clerk is reading of the amendments, and ought to help the clerk in reading of the same, in case it be difficult to be read, which falleth out very often, by reason of interlining or ill-writing. The clerk ought to read every amendment and interlining twice, that so it may have as many readings as the rest of the bill hath had; and very many times it will fall out that the interlining and amendments so read by the clerk, will of itself (without reading of the clause going before or following) be no sense; yet, notwithstanding, the clerk ought only to read the new amendments without meddling with any of the rest of the bill; for it is intended that the reporter hath declared to the House the reason of the amendment, and the connection thereof to the rest of the bill to make it sense. And it hath sometimes been permitted (when the amendments have been many and ill-written) that the whole bill hath been first read and then *the alterations by themselves.*"

Upon the report and consequent debate being finished, the Speaker puts the question for ingrossing. "Yet it hath been seen that a bill ill-written in the amendments hath been returned to the committees to be fairly written, and upon the reading thereof ingrossed; at some times

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[1] One reason given by Hakewel for such procedure sounds very strange to modern members of parliament—a temporary lack of work (p. 142).

[2] Bills coming from the House of Lords were already in an ingrossed form, so that an order for ingrossment would have been superfluous. Ingrossment is the transcription of the bill upon parchment by scribes.

it hath been ordered that a bill so written should be proceeded in as a new bill."[1] The stage of ingrossment was abolished in 1849, ingrossing being then superseded by printing upon parchment. Recommitment for purposes of reconsideration was known to Hakewel, but was looked upon by him as quite exceptional.

After ingrossment comes third reading. "For the most part the Speaker putteth not any one bill to the passage by itself alone, but stayeth till there be divers bills ready ingrossed for the third reading; and when he hath a convenient number (which may be five or six, rather less than more) then he giveth notice to the House that he purposeth the next day to offer up some bills to the passage, and desireth the House to give special attendance for that purpose. . . . . It hath at some times been ordered, for the preventing of carrying of bills with few voices, that no bills should be put to the passage until nine of the clock, at which time the House is commonly full, or shortly after. When the bill is read the third time the clerk delivereth it to the Speaker who reads the title thereof, and openeth the effect of the bill, and telleth them that the bill hath now been thrice read and that (with their favours) he will put it to the question for the passing; but pauseth awhile, that men may have liberty to speak thereto; for upon the third reading the matter is debated afresh, and for the most part it is more spoken unto this time than upon any of the former readings." Subsequent procedure has long diverged from this practice.

"When the argument is ended," proceeds Hakewel, "the Speaker (still holding the bill in his hand) maketh a question for the passage. . . . If the voice be for the passage of the bill the clerk ought to make a remembrance thereof in his journal. . . . Upon the bill thus passed (if it be a bill originally exhibited in the House of Commons) the clerk ought to write within the bill on the top towards the right hand these words, '*Soit baillé aux seigneurs.*' If the bill passed be a bill originally begun in the Lords' House, then ought the clerk to write underneath the subscription of the Lords, which always is at the foot of the bill, these words, '*A cest bille les communs sont assentus.*'"

Recommittal could not take place at third reading, but Hakewel describes certain irregular forms of amendment of the text of a bill, which the clerk was, in exceptional cases, directed to make at the table of the House.

When occupied in the reading of a bill it was forbidden to interrupt the proceedings for the purpose of taking up any other business.

Appended are some of the earliest standing orders as to legislative procedure:—

1580–1. Mr. Speaker wills the House to forbear speaking to bills at the first reading. (*House of Commons Journals*, vol. i., p. 118.)

1603. The first day of sitting in every parliament some one bill, and no more, receiveth a first reading for form sake. (*Ibid.*, vol. i., p. 150.)

1604. Order, that no bill, whereof the House is clearly possessed, be delivered to any before the House have notice and give leave. (*Ibid.*, vol. i., p. 223.)

1604. Rule agreed: No double question upon the passing of a bill;

[1] *Hakewel*, pp. 148, 149.

though sometimes upon the committing it is put double, if the voice or question be not clear. (*Ibid.*, vol. i., pp. 215, 975.)

1610. No bill upon third reading for the body to be committed, but for some particular clause or proviso. (*Ibid.*, vol. i., p. 424.)

1621. Ordered, that when any bill is committed, one shall be named to take the bill. (*Ibid.*, vol. i., p. 650.)

1628. Ordered, that upon the committing of every public bill, one of the committee shall be specially named by the House to take care of the bill. (*Ibid.*, vol. i., p. 920.)

1641. Ordered, that no public bill shall pass but between nine and twelve o'clock; and that if any man shall move the members of the House contrary, that he shall incur the censure of the House. (*Ibid.*, vol. ii., p. 224.)

1663. Ordered, that it be declared to be the ancient order and course of the House that, when any bill is committed, no private member ought to take it away; but the Clerk of the House, or his deputy, is to attend with the bill and order at the time and place appointed for the first meeting of the committee; and deliver the same in at the committee, after the chairman is chosen. (*Ibid.*, vol. viii., p. 488.)

PART XI

Financial Procedure [1]

Preliminary Observations

WE have now to consider the procedure whereby the House of Commons discharges the second of its fundamental duties, that of providing for the financial needs of the kingdom and the empire. English practice here differs widely from that adopted in Continental parliaments, and is a unique and intricate network of rules and arrangements. The system, moreover, can neither be described nor understood without reference to the cardinal principles on which English national finance is based. A striking proof of the intimate connection between parliamentary procedure and constitutional law may be found in the fact that some of the most important canons of finance law are laid down only in standing orders of the House of Commons, and therefore practically rest upon simple resolutions of that House.

We do not propose to give an exhaustive account of the theory and practice of English finance law. To do so might be very desirable in the interests of German political philosophy, which has followed only too closely a certain exposition of English law on the subject, namely, that of Rudolf von Gneist, and has drawn both its theory and political practice far too much from this one source. I intend to confine myself, in the main, to describing the constitutional principles applied to the treatment of finance so far only as needed for our immediate object. But it will hardly be inappropriate to supplement the description given by a few indications of the misconceptions to be found in German accounts of English finance law during the last fifty years, and of the erroneous deductions from the facts drawn by German writers.

[1] *May*, "Parliamentary Practice," pp. 545–630; *Manual*, pp. 161–185; *Hatsell*, vol. iii., 3rd edn., pp. 80–214; 4th edn., pp. 87–243.

CHAPTER I

Fundamental Principles

THE whole law of finance, and consequently the whole British constitution, is grounded upon one fundamental principle, laid down at the very outset of English parliamentary history and secured by three hundred years of mingled conflict with the Crown and peaceful growth. All taxes and public burdens imposed upon the nation for purposes of state, whatsoever their nature, must be granted by the representatives of the citizens and taxpayers, *i.e.*, by Parliament. We need not trace the history of this fundamental right or investigate how and when it came to win absolute acceptance. Without doing so it is enough for our present purpose to note that ever since 1688 it has been acknowledged beyond all doubt that Parliament is the one and only body in the state with power to impose any public burden upon the nation. The Bill of Rights declares "That levying money for or to the use of the Crown, by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal."[1] To the sound of these words the financial policy of the Tudors and Stuarts was finally driven off the field of law. All attempts to create a customs revenue in respect of foreign trade by royal ordinance under the king's prerogative were swept away once for all, along with forced loans and the practice of granting trade monopolies for the purpose of supplying the royal treasury. Before this time, too, the Convention of 1660, in arranging for the Restoration of Charles II, had deprived the Crown of the revenues (by then small and of little financial importance) accruing to it by right of feudal tenure, without the concurrence of the

[1] *Grant Robertson*, "Select Statutes, Cases and Documents," p. 77.

people's representatives. The alienation of Crown lands was forbidden at the same time.[1]

Keeping pace with the growth of the exclusive right of Parliament to grant the whole income of the state, there had been a second development: in the whole sphere of granting public money the House of Commons had acquired a special position, a complete predominance over the House of Lords. In very early days the Commons had possessed the sole *initiative* in granting money. As early as 1407 Henry IV acknowledged that grants of supply must take their rise in the Commons, and that the resulting grants, after the Lords had assented to them, ought to be reported by the mouth of the Speaker of the House of Commons.[2] It was thus admitted that the Commons, representing the nation collected into counties and boroughs, were the persons who granted the taxes. And when the Commons, after the long period of Tudor domination, once more began to assert their political independence, one of the chief claims put forward by them was that they were the body from whom grants of money proceeded. Since 1625 the Commons have always been named in the preamble to a money bill as the *grantors* of money.

Very soon, however, the right of initiative was expanded into an exclusive right of dealing with taxation, and the special position claimed by the Commons in this respect was clearly fixed. In 1671 they passed a solemn resolution "that in all aids given to the King by the Commons the rate or tax ought not to be altered by the Lords."[3] And a second resolution, passed on the 3rd of July 1678, affirmed "that all aids and supplies, and aids to his Majesty in Parliamen are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons: and that it is the undoubted and sole right of the Commons to direct, limit, and appoint, in such bills,

[1] An act for taking away the court of wards and liveries and tenures *in capite*, and by knights-service and purveyance, and for settling a revenue upon his Majesty in lieu thereof: 12 Charles II, c. 24 (1660) in *Grant Robertson, loc. cit.* pp. 1–5.

[2] *Stubbs*, "Constitutional History," vol. iii., pp. 62 *sqq.*

[3] Resolution, 13th April 1671; *Hatsell*, vol. iii., 3rd edn., p. 110 4th edn., p. 120.

the ends, purposes, considerations, conditions, limitations and qualifications of such grants; which ought not to be changed or altered by the House of Lords."[1] From this time forward the only right of the Peers has been to pass or reject money bills passed by the Commons. They have not been allowed to make any alteration whatever in them, and can only consider whether they will concur in making a money bill into an act of parliament. They have to go through a constitutional form and have no concern with the details of the bill.

The last stage in the gradual assertion of exclusive rights on the part of the Commons to cognizance of financial matters was reached in the year 1860. Until then it had always been looked upon as constitutional for the House of Lords to reject a money bill altogether, though not to amend it. In 1860, however, a conflict arose between the two Houses in reference to the measures for giving effect to the budget proposals of the Government. A bill was passed by the House of Commons in that year having for its object the repeal of the Paper Duty: it was rejected by the Lords. The House of Commons, while acquiescing in the treatment of the precise matter in dispute, replied, on the 6th of July, by passing three resolutions.[2]

The first affirmed that the right of granting aids and supplies to the Crown was in the Commons alone: the second asserted that although the Lords had exercised the power of rejecting bills relating to taxation yet the exercise of that power had not been frequent, and was justly regarded by the Commons with peculiar jealousy as affecting their right to grant the supplies and to provide the ways and means for the service of the year. The third resolution stated "that

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[1] Resolution, 3rd July 1678; *May*, "Parliamentary Practice," p. 574. See also *Hatsell*, vol. iii., 3rd edn., pp. 100–140; 4th edn., pp. 110–157, and Appendices Nos. 5 to 8, for the whole documentary material upon the privileges of the Commons as to money grants and the difficulties and negotiations with the House of Lords.

[2] A full and lucid account of these very important transactions and of the discussions of 1860 and 1861 will be found in *Spencer Walpole*'s "History of Twenty-five Years," vol. i., pp. 360 *sqq*. The text of the resolutions is given in the *Manual* (1904), pp. 186–188; *May*, "Parliamentary Practice," pp. 583, 584.

to guard for the future against an undue exercise of that power by the Lords, and to secure to the Commons their rightful control over taxation and supply, this House has in its own hands the power so to impose and remit taxes and to frame bills of supply, that the right of the Commons as to the matter, manner, measure and time may be maintained inviolate."

The policy foreshadowed in these resolutions led to a step of great importance being taken in the year 1861. All the Government's proposals as to taxation were combined into a single bill, and laid before the House as a whole. The provisions of the previous session's bill for repealing the paper duties were revived as part of the complete scheme, and the House of Lords was forced into the position of having to accept or reject the financial proposals of the Commons as a whole.[1] Amendment of the single money bill was constitutionally impossible. For two hundred years the House of Lords had ceased to claim any such right. In face of the

[1] This innovation was described as a use of the procedure of "tacking" clauses to a money bill, and was challenged by the Opposition as unconstitutional. The expression "tacking" implies the adding of irrelevant clauses to a bill; laws introduced by procedure of a similar kind were known in ancient Rome, and called *leges saturæ*. The method was one that had often been tried by the Commons, but repudiated by the Lords as a breach of their privileges. In 1702 the Lords adopted a resolution, now Standing Order 59, "That the annexing any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bills of aid or supply is unparliamentary, and tends to the destruction of the constitution of the Government." Indeed, this method of forcing legislation through Parliament was always considered unconstitutional. As a modern expert on English parliamentary law has truly observed, as late as 1846 it never occurred to Sir Robert Peel to compel the Lords' acceptance of the abolition of taxes on corn by such means. (*L. Courtney*, "The Working Constitution," pp. 23, 24.)

But this did not apply to a combination of two financial measures into one, to the repeal of one tax with the imposition of another. Mr. Gladstone, who, as Chancellor of the Exchequer, was responsible for the adoption of a measure of this kind, demonstrated in an admirable speech that such procedure was not "tacking" of an objectionable kind. He pointed out that both in the eighteenth and nineteenth centuries such composite supply bills had repeatedly passed through Parliament without protest (see "The Financial Statements of W. E. Gladstone, 1853, 1860, 1861," pp. 414 *sqq.*). The tacit acceptance of this principle by the House of Lords in 1861, and the precedent thus created, show clearly that the Upper House no longer felt able to dispute the exclusive privilege of the Commons to settle the whole financial scheme of the year.

alternative presented to them, the Lords could do nothing else than accede to the aggregate of financial proposals without exception. They could not bring themselves to reject the whole financial scheme of the year. And so the matter ended. For more than a generation now the Commons' right to sole management of the country's finance has been asserted in this way; it is now both true in fact and accepted as a principle of constitutional law that the House of Lords is excluded from influence on money matters and it can never expect to reassert a claim to possess any. The immensely important constitutional reform, carried through as described, was completed without alteration or enactment of a single rule of law, and its establishment vividly illustrates the incomparable elasticity of the British constitution and its contempt for juristic construction and dogmatic formulation.

In 1894 the title of the annual bill regulating all the taxes for the year and other periodical measures of finance, was changed from "Customs and Inland Revenue Bill" to the more accurate "Finance Bill"; at the same time the scope of its provisions was enlarged. The budget for that year introduced certain permanent changes in relation to the reduction of the national debt, and, instead of dealing with them separately, the Government included them in their annual Finance Bill. The innovation was made with the concurrence of both political parties in the House of Commons and again was allowed to pass without challenge by the Lords, who thereby sealed their final act of abdication of all right to interfere in granting taxes.[1]

[1] The present division of financial legislative scope between the two houses of parliament, as finally settled by nineteenth century practice, has been clearly summed up by Sir Courtenay Ilbert in the following series of statements:—

(1) The Lords ought not to initiate any legislative proposal, embodied in a public bill, and imposing a charge on the people, whether by way of taxes, rates, or otherwise, or regulating the administration or application of money raised by such a charge.

(2) The Lords ought not to amend any such legislative proposal by altering the amount of a charge, or its incidence, duration, mode of assessment, levy, or collection, or the administration or application of money raised by such a charge.

(3) The Lords may reject the whole of a bill embodying any such legislative proposal, or may reject the whole of a set of provisions embodying any such legislative proposal, and forming part of a bill which

The foregoing explains the first of the constitutional principles governing the procedure on financial matters. It may be stated in the following terms. All taxes, duties and grants of money, and all measures imposing financial burdens on the people are matters within the sole jurisdiction of the House of Commons; no alteration in the existing law as to money matters or creation of new law, no increase or diminution of the subject matter or rate of a tax, no reduction or increase of the rate of interest on state loans or any other similar matter may be proposed by the Lords.

Closely connected with the first of the Commons' rights in money matters is a second, inseparable from it and equally fundamental. They are entitled to order and dispose how the national revenue, whether permanent or annually granted, is to be spent, and to do so in the greatest detail. Regarded

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they are otherwise entitled to amend, when the set of provisions so rejected form a distinct and separate subject.

(4) Where the Commons assert their privileges in respect of a bill originating in the House of Lords, they resolve that the bill be laid aside, or be postponed for six months or some other period.

(5) Where the Commons assert their privileges in respect of an amendment made by the Lords in a bill originating in the Commons, they disagree with the amendment, and send a message to the Lords stating that the amendment would interfere with the public revenue, or affect the levy and application of rates, or alter the area of taxation, or otherwise infringe the privileges of the House, and that the Commons consider it unnecessary on their part to offer any further reason, hoping this reason may be deemed sufficient.

[If the Lords insisted on their amendment the consideration thereof would be laid aside, or be postponed for six months or some other period.]

(6) The Commons have, by standing order, waived their privileges in certain classes of cases.

[The standing orders referred to are Standing Order 44 (for which see Appendix) and Standing Order (private business) 226, which reads as follows:—This House will not insist on its privileges with regard to any clauses in private bills, or in bills to confirm any provisional orders or provisional certificates, sent down from the House of Lords, which refer to tolls and charges for services performed, and are not in the nature of a tax, or which refer to rates assessed and levied by local authorities for local purposes.]

(7) The Commons sometimes waive their privileges in particular cases where the House has not considered it advisable to insist upon them.

[These cases (see *May*, "Parliamentary Practice," pp. 576, 577) comprise the following:—

(*a*) Where amendments, not strictly regular, do not materially infringe the privileges of the Commons.

historically the right to control expenditure was somewhat later in arriving at full maturity than the right of exclusive granting of supplies; but from 1688 to the present day it has continued to grow in strength step by step and has been carried to its farthest conclusions; it has now become as firmly established as was the former doctrine in the struggles against Charles I and James II.[1]

Both income and expenditure are therefore completely and exclusively in the hands of the House of Commons. The House of Lords has the alternative of accepting or rejecting the financial proposals of the Commons as a whole but has no power of amending a single detail; its rights at the present time are hardly more than formal. Since the fall of Charles I the Crown has not had even a trace of right to impose taxes or to direct the expenditure of money

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(*b*) Where amendments affect charges upon the people incidentally only, and have been made for the purpose of giving effect to the legislative intentions of the Commons.

(*c*) When amendments can only with difficulty be separated from other unobjectionable legislative provisions or amendments.

(*d*) When a rigid adherence to privilege might exclude the Lords from the practical consideration of a bill for the administration of local and other rates and charges.]

In such cases the Commons often justify their action by means of an entry in the journal made by direction of the Speaker, and explaining the reason for the course adopted [stating, for instance (see *May*, "Parliamentary Practice," p. 576), that the amendments are verbal—further the intention of the House—make the provisions of the bill uniform and consistent—or that the amendment does not alter or otherwise affect any valuation or assessment of taxation].

(8) The Lords have occasionally, after making an amendment which would throw a burden on public funds, qualified the amendment by a proviso that it should not have that effect. Such a proviso prevents the question of privilege being directly raised, but nullifies the amendment, and is intended as an invitation to the Commons to strike it out and thus make the imposition of the burden their own act. This course was adopted in the case of the Local Government (Ireland) Bill, 1898, and the Education Bill, 1902.

(9) When the Lords wish to indicate that certain financial provisions are required to give effect to legislative proposals made by them, those provisions are printed in italics in the bill or amendment sent down by them, but are not supposed to form part of the bill or amendment so sent down. They operate merely as suggestions, and must, if adopted by the House of Commons, be voted and passed as proposals originating in that House.

(*Manual*, pp. 188 *sqq.*; see also Standing Order 44.)

[1] See as to this, *infra*, pp. 159 *sqq.*

brought in by them. The Crown, or more correctly speaking the Government, has in money matters only to receive the money granted by the Commons and to spend it as the Commons have directed. The relations between the three constituents of Parliament have been summed up concisely by Sir Erskine May in a few pregnant sentences. "The Crown," he says, "demands money, the Commons grant it, and the Lords assent to the grant: but the Commons do not vote money unless it be required by the Crown; nor do they impose or augment taxes, unless such taxation be necessary for the public service, as declared by the Crown through its constitutional advisers."[1] It need hardly be emphasised that by "the Crown" we are to understand the cabinet for the time being, and that the King himself has long since ceased to have any influence, either theoretical or practical on the management of the income and expenditure of the country.

The passage cited from May's work points to the *second fundamental principle* characteristic of English finance law. The principle has never been stated in any act of parliament, so as to be law in a strict sense of the word: though one of the fundamental ideas of the British constitution it has no firmer technical basis than a standing order of the House of Commons, and rests, therefore, upon a simple vote of the House. It is one of the oldest of the standing orders now in force: first enunciated on the 11th of July 1713, it has twice been expressly re-affirmed, on the 25th of June 1852 and on the 20th of March 1866. It runs as follows:

> This House will receive no petition for any sum relating to public service, or proceed upon any motion for a grant or charge upon the public revenue, whether payable out of the Consolidated Fund or out of money to be provided by Parliament, unless recommended from the Crown.[2]

By laying down this rule the House of Commons placed in the hands of the Government all power of *initiative* in respect of the expenditure of public money, voluntarily resigning, both for itself as a body and for all its individual

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[1] *May*, "Parliamentary Practice," p. 545.

[2] Now Standing Order 66. Of course this rule indirectly prevents any initiative on the part of members in respect of an imposition of new taxes or the raising of existing duties.

members, a privilege which in theory nobody had dreamed of contesting. Since the order was made it has not been competent for one or more unofficial members of the House to propose by motion or petition a grant of money for any purpose, or for the House to act upon such a proposal unless the grant is *asked for by the Crown:* only when this is done does the House vote definite sums for definite purposes. The Crown alone, or to speak more accurately the Government alone, has the right to ask for public money for definite purposes or to propose to the House the expenditure in a definite way of moneys already granted. The limitation of power effected by this action was undoubtedly a constitutional innovation of the deepest importance: it was, however, effected not, as might have been expected, by statute, but by a simple order of the House of Commons, liable at any moment to be repealed by an equally simple action: and yet for almost two hundred years it has been allowed to remain untouched as one of the main principles of British finance. Again we note as characteristic of British constitutional methods the appearance of laxity. Once more we are reminded how impossible it is to exhaust the meaning of rules and principles in English public law by mere "juristic" treatment, without attending to their political significance. For what is the true sense of this remarkable self-denying ordinance? There is no need to point out that it does not aim at giving the Crown any fresh power over the national finances. But unquestionably it confers an important privilege upon the Government in relation to the spending of public money. The reason for its adoption is twofold and not difficult to understand.

The limitation is dictated by a wise recognition of a serious danger: it is a measure of protection against the easy extravagance of a large assembly; the House well knows how real the risk would be were each member entitled to use his eloquence and tactical ability for the purpose of calling the public credit of the country and its tax-paying capacity to the aid of any object in which he was interested. State expenditure ought to be the expenditure of the responsible administration. Only those charged with administering the government are constantly able to take a comprehensive view of the wants of the country and the empire, to distinguish

important claims from secondary, what is urgent from what may safely be postponed. Responsibility for the administration as a whole best teaches the relative importance of measures affecting the income of the nation both as regards the management of the national finances and also as regards the well-being of the people. Accordingly the House of Commons directs that the Crown, *i.e.*, the administration, is to have the sole power of fixing the limits to the annual demands on the people's tax-paying capacity and of selecting the particular ends to which the produce of the taxes is to be devoted; moreover, it requires that no expenditure proposed by any member is to be brought before it until the Ministry have adopted the suggestion and made it their own.

To understand the provision completely—this is the second point to notice—we must remember that at the time when the standing order was first adopted both the political supremacy of Parliament and the financial omnipotence of the Commons had already been firmly established, and the foundations of party government through parliamentary cabinets had been already laid. The Government upon which the right of initiative was conferred was not one of an absolutist or pseudo-constitutional kind, not a royal "council" outside of, or opposed to, the representatives of the people: it was a Ministry dependent upon Parliament, one ere long to be drawn exclusively from its midst. The order of the House of Commons may be taken as a proof that, when it was made, the dependence of the executive on Parliament was an accomplished fact.[1]

It would, however, be highly inconvenient if there were no method whereby the House, in special cases, could recommend expenditure without the concurrence of the ministers of the Crown, could even at times override their opposition. There is an expedient which avoids any breach of the principle: the form of an address to the Crown provides what is needed. It is always in order for the House to present an address praying the Crown to spend money in a certain way and promising to make good what is needed

[1] This principle, by resolution of the 21st of July 1856 (Standing Order 70), was expressly extended to the finances of India.

for carrying out the suggestion.[1] For current expenditure the form has long ceased to be of practical use. Here again the plan of a parliamentary cabinet has rendered obsolete a right originally conceived as a protection to the House against the Crown and its ministers. But it is still useful in cases where policy recommends that proposals for expenditure should appear to come not from the Ministry but from the body of the House.

The third constitutional rule as to financial procedure adds a further provision concerning the form in which money bills must be introduced. It springs from the same motive as prompts the demand for Government recommendation. A standing order, first adopted in 1707 (now No. 67), runs as follows :—

> This House will not proceed upon any petition, motion, or bill for granting any money, or for releasing or compounding any sum of money owing to the Crown, but in a committee of the whole House.

The restriction in this order as to dealing with petitions for compounding money due to the Crown is supplemented by further regulations against receiving such petitions without a certificate from the proper officer stating the debt, what prosecutions have been made for the recovery of such debt, and setting forth how much the petitioner and his security are able to satisfy thereof.[2] Lastly, addresses to the Crown for the issue of public money are bound to be introduced in a committee of the whole House.[3] All these rules are measures intended to protect the House against itself, to prevent hasty grants of money and ill-considered increases in the responsibilities of the people.

We may now pass to the form in which the annual budget of the United Kingdom appears. It should, in the first place be remarked, that the technical term *budget* was originally applied only to the exposition annually given by the Chancellor of the Exchequer at the opening of the financial year of the state of the country's finances and the measures rendered necessary thereby (the financial statement).[4]

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[1] Standing Order 69.

[2] Resolution, 25th March 1715, Standing Order 68.

[3] Resolution, 22nd February 1821, Standing Order 69.

[4] *Budget* is derived from the word *budge*, an obsolete word for a small bag; *budge* is itself an anglicised form of the French *bouge*, which has the

It has, however, become customary, though less in England than elsewhere, to use the word as denoting the whole annual plan of finance.

There is a regular routine for drawing up the financial programme. On the 1st of October in every year the Treasury issue a circular to the accounting officers in each branch of the Civil Service: they are instructed to frame estimates for the coming year of the expenditure upon the services administered by their own particular departments, and in ordinary cases to make their returns to the Treasury as the central authority by the 1st of December. Such estimates as need longer preparation have a longer period allowed, but in any case they must be ready before the opening of Parliament. The Treasury examine all the estimates and decide upon the final figures.[1] There are special finance departments for army and navy administration, and the details of their estimates are made up in the departments themselves. They are sent in to the Treasury and checked there, though not so minutely as the Civil Service estimates; but when they are laid before the House the duty of explaining them devolves on the ministers respectively in charge of the army and navy.

From the statistics thus obtained and from the estimates of income made by the tax-collecting departments the Treasury draw their conclusions both as to the amount to be anticipated from the existing and proposed sources of revenue in the next financial year and also as to the probable requirements of the state and administration during the same period, which must therefore be demanded from the House of Commons. The Chancellor of the Exchequer has to take the responsibility for the ultimate result of the computation

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same meaning. In a pamphlet of 1733 entitled "The Budget Opened" Sir Robert Walpole, the Prime Minister and Chancellor of the Exchequer, when explaining his financial measures is satirically pictured as a quack doctor opening a bag filled with medicines and charms. The expression appears to have come into use about this time. There is an echo of the original application of the word to this day in the common parliamentary expression "opening the budget" to describe the Chancellor's annual financial statement.

[1] See the most instructive Report of the select committee on National Expenditure 1902 (No. 387), pp. 191 *sqq.*, and Qq. 1–264.

arrived at by combining all the estimates on both sides, together with his suggestions for bringing about financial equilibrium: he summarises them in a statement to the House of Commons, giving the whole scheme of finance for the year, his "Annual Budget." We may now proceed to examine in greater detail the plan on which it is arranged.[1]

The receipts, collected together under the title of "Revenues of the Crown," are divided, under the modern system of account-keeping, into twelve classes.[2] There is, however, a second classification of great importance from our special point of view. Part of the revenue comes from permanent and the rest from temporary sources of taxation.

Duties and taxes are imposed by statute, and when a tax or duty has been imposed it remains in force, in the absence of further statutory provision, for such period as may be prescribed by the statute imposing it. As regards the majority of taxes and duties the prescribed period is "until Parliament otherwise determine." But, with a view to maintaining parliamentary control over taxation from year to year, a constitutional practice has been established whereby at least one important customs duty and at least one important direct tax are made subject to annual renewal. Accordingly, whether the financial arrangements of any given year require the imposition of additional taxation or not, an act must be passed every year to continue these expiring imposts; and when the Finance bill, in which such renewal is proposed, is before the House it is competent for any member to raise the question, not only of the renewal of the particular imposts in question, but of the continuance of any other duty or tax, whatever may be the statutory time limit, if any, prescribed for it.

For many years the tea duty and the income tax have for this purpose been imposed year by year for one year only; but the reason for their annual renewal being purely constitutional, they, in practice, form, no less than the duties and taxes imposed "until Parliament otherwise determine,"

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[1] See the summary of the 1903 budget in the Appendix.

[2] 1. Customs; 2. Excise; 3. Estate, etc. duties; 4. Stamps; 5. Land tax; 6. House duty; 7. Property and income tax; 8. Post Office; 9. Telegraph service; 10. Crown lands; 11. Receipts from Suez Canal shares and sundry loans; 12. Miscellaneous.

a part of the permanent taxation of the country. On the other hand, the income tax, of direct taxes, and the tea duty, of indirect taxes, are those which lend themselves most readily to variation of rate from year to year; it is convenient, therefore, that the sources of revenue to which a Chancellor of the Exchequer as a rule first looks, when he has to consider the adjustment of revenue to expenditure, should be those which must of necessity come under review.

There is, however, another reason which leads, on occasion, to the imposition of a tax or duty for a limited instead of an indefinite period; the increase of revenue may be needed to meet some temporary emergency. In such a case the practice has been to impose a special tax, or a special additional rate of tax, either (as during the Crimean war) for a period limited to the duration of the special expenditure, or (as during the South African war) for a single year, with a view to renewal from year to year as circumstances may require.

The additional rates of duty imposed during the South African war upon beer, spirits and tobacco belonged, in the first instance, to this last category; but, in fact, it proved to be necessary to continue them after the particular emergency had passed, and they have now (by the Finance Act, 1907) been recognised as forming part of the ordinary taxation of the country, and have been continued "until Parliament otherwise determine."

The corn and coal duties, on the other hand, while they were intended at their inception to form part of the ordinary taxation, and were accordingly imposed until Parliament otherwise determined, were both, in fact, soon discontinued —the former after being in operation only for a single year.

Apart, therefore, from the special cases of the tea duty and the income tax, it may be said that the presence or absence of a specific time limit in the act imposing a duty or tax has little practical importance, except as affording an indication of the intention of Parliament at the time it was imposed.

All receipts of every kind are paid into one and the same chest, the Consolidated Fund. This fund is the financial representative of the state to the outside world, legally constituted as such the first time on the formation of the fund

in 1787; it has long ceased to be a real central treasury and now only exists for purposes of account-keeping.[1]

Heads of expenditure are divided into two groups; there are Consolidated Fund services and Supply services. The first include a large number of fixed charges depending upon permanent statutory or legal titles. There is no need for an annual application to Parliament in such cases; the sums payable are charged upon the resources of the country, as embodied in the Consolidated Fund, like a mortgage. The most important section of them is the charge for the service of the National Debt; then come the King's Civil List, the annual payments to members of the royal family, the judges' salaries, the Speaker's income, a large number of pensions to former judges, ministers, officials, &c., certain annuities to the representatives of national heroes such as Nelson, Rodney, Napier, and others, and finally a multifarious list of different items, many quite trifling in amount.

It would, however, be a mistake to attempt to lay down any precise rule by which to test the propriety of including any particular expense among the Consolidated Fund services: in many cases the reason is purely historical. The modern tendency is against any new charges of the kind: some special reason is always required for withdrawing expenditure from annual discussion.

The amounts required for the Supply services, on the other hand, have to be granted each year by the House of Commons. They fall into three divisions (1) Navy, (2) Army, (3) Civil Service.[2] The last of these three is further analysed into seven classes. Each class is subdivided into a series of votes, and the votes again into items, which are the smallest units considered by the House.[3]

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[1] Thirteenth report of commissioners on public accounts, 1785. The statute itself is 27 Geo. III, c. 13.

[2] In the modern shape this last division includes four supplementary subheads, viz.: (*a*) Customs and Inland Revenue, (*b*) Post Office, (*c*) Telegraph service, (*d*) Packet service. These are what are called the Revenue Departments.

[3] Although the House may reduce a vote in respect of a particular item, it does not expressly grant the separate items.

The budget, of course, is based upon an effort to attain financial equality between the total income and the total expenditure for the year. The Chancellor of the Exchequer, therefore, when he makes his annual statement and explains his proposals for producing the requisite equilibrium, presents estimates of all income and expenditure, both permanent and annual. But though it is necessary for the House to be informed of the whole financial position of the state, and to start from this knowledge in discussing what financial measures should be taken, it is only the variable part of the budget which calls for express yearly order and grant by the House. *Permanent expenses charged upon the Consolidated Fund do not come up for annual discussion, and though all measures of taxation are, as before explained, open to discussion, their financial basis, except in the special cases mentioned before, is not renewed every year.* The sole purpose of the annual work of the Committees of Supply and Ways and Means is to fix on the one hand the bases of the duties and taxes granted, renewed or revised, and on the other hand the expenses of the Navy, Army, and Civil Service.

The House of Commons thus exercises its powers over the management of money matters upon a field narrowed down in advance by previous enactment. Not that the expenditure which escapes annual supervision forms any great part of the whole: in 1903 the total national expenditure came to £184,484,000, the Consolidated Fund services accounting for £30,071,000 only. This is only about 16 per cent: but on the income side the proportion of fixed taxes to the whole is much larger. As before explained, the greater part of the revenue comes from permanent sources and is not provided for by annual grant. It would, nevertheless be the greatest of mistakes to suppose that this restriction of the financial subject matter discussed by Parliament corresponds to any constitutional limit upon the jurisdiction of the House of Commons. The House is perfectly free to convert all or any of the permanent taxes into annual ones, and by so doing to insist upon an express yearly revision of the whole income of the state. We shall, in a subsequent chapter, have to discuss the political and constitutional

reasons for the fact that the House of Commons has during the last two hundred years been content to leave the self-imposed limitation undisturbed. But we may at once point to considerations which show that the financial power of the House is in no degree prejudiced by the division of both income and expenditure into two parts, one permanent and one temporary. In the first place the simple fact that a substantial portion of the income and expenditure does depend upon the annual action of the House makes its intervention in the management of the whole an absolute necessity: without the grant of the annual taxes there would be no possibility of establishing a parity between income and expenditure. The vote of the House upon the annual sources of income fills up a gap which would otherwise remain unclosed. But in addition there is a special institution applicable to the whole income and expenditure, what is called *Appropriation*. After all the variable items of expenditure have been approved, after the final settlement of taxation by the Finance Act, there is yet something to be done. An act has to be passed permitting the withdrawal from the Consolidated Fund of the money which has reached it, and allowing it to be applied in strict accordance with the scheme finally adopted by the House in its resolutions. By granting the variable taxes and duties in the Finance Act and by passing the Appropriation Act Parliament gives the ultimate legal and financial sanction to the *whole finance* of the current year.

Up to this point we have only been considering the ordinary sessional finance. To complete our survey of the action of Parliament on money matters we must glance at the extraordinary forms in which finance from time to time engages the attention of the House.

1. In the first place there are "*votes on account*." The fact that, while the financial year begins on April 1, the discussion of the estimates lasts for months and is not finished much before the end of the session, renders it necessary every year to make statutory financial provision for the Government's work during the intervening period. This is the more urgent in that the rules of British finance forbid any savings or balances to be used for the expenses of subse-

quent years. It is a fundamental principle that money voted for one year must be spent, if at all, in that year, and not carried forward into the next. The consequence is that at the beginning of the financial year, while the new estimates were in course of discussion, the Government would always be practically without funds if the House did not provide them in proper time, *i.e.*, before the 1st of April. In our chapter on estimates procedure we shall find a better place than the present for describing in detail how the temporary exigency is met, and how, if need be, more than one vote on account is arranged.

2. *Supplementary grants.* A supplementary grant is required when an estimate already granted for some service or for some special purpose is found to be inadequate, or where a sum has been granted and is found to be too small for the object in view; or, again, where some unforeseen call for expenditure arises during the course of the session. The last contingency is most commonly caused by military expeditions, naval mobilisations and like events; in short, by the demands of foreign policy.

3. *Excess grants* are grants made to cover money actually spent by some department upon purposes beyond the total amount voted for the service of the year, and which it has in the meantime obtained by an advance from a certain fund, the "civil contingencies fund," occasionally used in such cases, or out of "extra receipts." Excess grants should always, if possible, be voted before the end of the financial year in which the overspending has been reported on by the Comptroller and Auditor-General.[1]

If an overspending is detected in the financial year in which it occurs it is adjusted by a supplementary estimate before the end of the year: the necessity for an excess grant only occurs when the irregularity is discovered upon audit *i.e.*, after the year's accounts are closed.

4. *Votes of credit.* Sudden demands for money of a kind difficult to estimate in advance, such, for instance, as unexpected military expenditure, are legally satisfied by a

[1] Such a proposal must be first laid before the Committee of Public Accounts, the House of Commons' committee for examination of accounts.

grant from the House of a round sum of money to be applied to the special purpose. It has not been necessary to ask for a vote of credit since 1885.

5. *Exceptional grants.* At times money is required for the cost of some imperial undertaking which forms no part of the current service of the year; such, for instance, was the purchase of Suez Canal shares; or money may be required for the maintenance of the dignity of the Crown, possibly for an allowance to some member of the royal family, or for a dowry to a royal princess; or, again, it may be thought fitting to give a special pecuniary reward to some man who has rendered distinguished service to the state. Any one of these may need to be specially provided for, and the grant made is called "exceptional."

The legally unlimited power of the House over the whole finance of the country stands out clearly in all the forms of special grants. But it is in reading the description we must now give of the procedure as a whole that we shall gain the best insight into the way in which this fundamental privilege of the House of Commons is asserted.

CHAPTER II

Discussion of the Estimates

AT the beginning of the regular session of Parliament the Crown sets in motion the financial activity of the House of Commons by requesting, in the speech from the throne, a grant of sufficient amount to carry on the affairs of the nation. The passage on the subject recognises the special position of the House of Commons, inasmuch as it is addressed to that House alone. For instance, in the speech at the opening of the session of 1903 we find :—

"Gentlemen of the House of Commons,

The estimates for the coming year will be laid before you. Although they have been framed with due regard to economy, the needs of the country and of the empire make a large expenditure inevitable."[1]

The finance procedure of the year begins, therefore, with the King's speech. We must now give a description of the parts of the parliamentary machine used in the deliberations of the House upon money matters.

In response to the speech from the throne the Commons, as soon as they have voted the address in reply, appoint the two great committees before which the whole finance of the year has to be discussed—the Committee of Supply and the Committee of Ways and Means.[2] They remain open until all the financial measures contemplated at the beginning of the session are disposed of. If any further money should be required after the committees are closed it would be necessary to have a new speech from the throne or a royal

[1] *Parliamentary Debates* (118), 3.

[2] The appointment, under present arrangements, takes place upon a question proposed by the Speaker: no debate is permissible and the whole transaction is a pure formality. See *May*, "Parliamentary Practice," p. 587. To take an example from the session of 1903; on the 26th of February, immediately after the order for an address in reply to the King's speech, the House "Resolved, That this House will, upon Monday next, resolve itself into a committee to consider of the supply to be granted to his Majesty." A like resolution as to the Committee of Ways and Means follows. (*Parliamentary Debates* (119), 1004.)

message. Both committees, as we have already seen, are committees of the whole House, *i.e.*, committees only in the artificial sense of the word. They and the House divide financial discussion among them, all orders of the House being led up to in one or other of the two committees by discussion and resolution. The functions of the two committees are precisely and inexorably determined. The Committee of Supply supervises expenditure, examining the demands made, in the estimates, for the expenses of the navy, army, and civil services during the current year. Its powers, are, however, limited to these services. Liabilities charged by laws of permanent operation upon the Consolidated Fund, such as the interest on the national debt, the civil list, the salaries of the judges, &c., need no "grant of supply," do not appear in the estimates, and form no part of the expenditure to be discussed by the House. Every other financial burden on the nation, every expense not charged upon the Consolidated Fund, has to be brought by the Government before the Committee of Supply there to be discussed.

The Committee of Ways and Means, on the other hand, is concerned with raising such part of the national revenue as is the produce of taxation; it carries out its task by deciding upon the nature and amount of all taxes and duties which are being granted for the first time, or which need revision or renewal. It has a second function—that of assigning the proceeds of taxation to cover what the Committee of Supply has granted; that is to say, of authorising the application of the moneys in the Consolidated Fund to the purposes sanctioned in supply.

The regular estimates of expenditure go, therefore, straight to the Committee of Supply, and all proposals made by the Government, whether in the ordinary budget or otherwise, for raising money go to the Committee of Ways and Means. Included among these proposals are all motions for an increase in an existing tax or the introduction of a new one, for raising the rate of a duty or levying a new one, for raising or imposing fees or tolls, in short, all motions intended to benefit the Exchequer by laying fresh burdens on the people. It follows, of course, that any proposal for

incurring debt or raising the rate of interest on an old debt must originate in the Committee of Ways and Means.[1] It is not necessary to preface a proposal to reduce taxes, duties, fees, &c. by discussion in this committee. Such a proposal may be made in the House itself or in any other committee of the whole House.[2]

The task of both committees is strictly limited to satisfying the demands of the Crown as laid down in the amounts estimated in advance for its needs. The Committee of Supply is not necessarily called upon to discuss extraordinary demands for money; any other committee of the whole House has jurisdiction unless the matter is specially referred to the Committee of Supply. So, too, the Committee of Ways and Means has exclusive jurisdiction only over those branches of taxation before specified. Statutory alterations of permanent taxes are referred, as a rule, to special committees of the whole House charged with the particular matter.

The distinctions just drawn are not of much importance at the present day, except as affecting the distribution of the sittings of the House among the different matters of business before it; practically speaking, they are devoid of significance.[3]

Both committees are, under the standing orders, regularly appointed for Mondays, Wednesdays and Thursdays: it is further provided that on Thursdays discussion of estimates in Committee of Supply is always to be the first order of the day. Subject to these rules the Government have complete discretion to fix on what day and at what point in each sitting financial business is to be taken. This privilege

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[1] The distinction was already clear in Hatsell's time. "The Committee of Supply is a committee . . . to consider of the supply granted to his Majesty . . . The object of the Committee of Ways and Means is . . . to find out modes of raising the supply, which the House (upon resolutions reported from the Committee of Supply, and agreed to), have granted to his Majesty; and the first consideration attending this proceeding is, that the money proposed to be raised upon the subject by loans or taxes or any other mode, should not exceed the sum already granted in the Committee of Supply" ("Precedents," vol. iii., 3rd. edn., pp. 172, 174, 4th edn., pp. 193, 196). As to the strict limitation of the two committees to the regular financial necessities of the country, see *ibid.*, 3rd edn., pp. 173–175; 4th edn., pp. 194–199.

[2] *May*, "Parliamentary Practice," p. 601, note 3.

[3] *Ibid.*, pp. 553–556, 620, 621.

is only a special application of their general right, so often referred to in former chapters, to arrange the business on Government days in whatever order they please.

Turning first to the Committee of Supply, we find in it the apparatus whereby the House of Commons makes effective its absolute control over the whole administration of national and imperial finance. On granting supply criticism is by no means confined to financial points; it is often, indeed more frequently than not, directed to other main objects of political life and parliamentary action. Discussion in supply, in the first place, focusses the scrutiny of Parliament into the administration of the Empire: opportunities are afforded to private members for remarks and comments upon the manner in which the services whose estimates are before the House discharge their public functions. Debate upon the estimates is therefore the appropriate occasion on which to advocate local claims or particular efforts for legislation and state action in a wide sense of the term. Reforms affecting any branch of the public service may thus annually be advocated. The estimates, again, furnish yearly recurring occasions for entering upon such subjects as general foreign policy, military and naval plans, or the world-embracing British trade and colonial policy. Secondly, with the central place in national affairs occupied by the state housekeeping, the topics introduced in its discussion give many opportunities for applying the great political principles which divide or unite the Government and the Opposition; the estimates are the battlefield where the great parties champion their respective causes, not only with reference to economic considerations, but also on grounds affecting national policy as a whole. And lastly, they furnish the traditional and appropriate occasions for challenging or calling for an expression of the confidence of the majority of the House in the Ministry and thus testing the political basis of their authority. The capacity possessed by discussion on estimates of providing a general safety valve for political moods of all kinds both in the nation and in the House may, of course, be made use of at any stage. It has repeatedly happened that a Government, and consequently a whole political system, has been wrecked by a refusal on

the part of the House to pass some vote of quite minor importance or by a merely nominal reduction of some estimate.[1] More frequently still have the general debates annexed by tradition to the various stages of estimates procedure formed the occasions for general political discussion and party conflict. By the beginning of the nineteenth century a practice had grown up of moving amendments to the formal question that the Speaker should leave the chair, or in other words that the House should transform itself into a committee: there was no restriction as to the subject matter of such an amendment, and it was therefore possible to raise a general political issue whenever it was necessary to make the motion. The reforms in procedure since the passing of the first Reform Act have, as we learnt before, placed stringent limitations on the freedom of members to initiate such general discussions; at the present day, if we disregard urgency motions, the only regular opportunities of the kind are the discussions on the adjournments over Easter and Whitsuntide, the debates on the Appropriation Act, and those upon the introduction of the estimates;[2] in form these last are still linked to the question that the House resolve itself into Committee of Supply. We have seen, too, that they are only admissible when the proposal before the House is to take up for the first time one of the three main heads of the estimates, and must then be limited to questions relevant to the class in contemplation: but these three occasions and the opportunity given by report of supply to the House are the only chances of general financial debate, and they often are utilised for the purpose of important political discussions.

The Session of 1903 provides examples of the use made of such opportunities.

The House having, on the 26th of February, ordered the appointment of the two committees, the first votes were, after several adjournments, set down for the 9th of March. On this day, therefore, the representative of the Government, upon the order of the day for supply being read, moved

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[1] Lord Rosebery's cabinet was defeated on the 21st of June 1895 upon a trifling item in the army estimates: the resignation of the Government immediately followed.

[2] In the 1904 session eleven days were spent on general discussion in addition to twenty-three days specially allotted to supply. (*Parliamentary Debates* (140), p. ccxxxix.)

"that Mr. Speaker do now leave the chair (for committee on the army estimates)." Thereupon Colonel Long at once proposed to amend the motion by leaving out from the word "that" to the end of the question in order to add the words "in the opinion of this House, the altered conditions of modern warfare render necessary radical changes in the system of professional training of the officers and men of our army and auxiliary forces, which proved inadequate during the late war," instead thereof. After debate the question that the words proposed to be left out be retained was put and carried. The principal question being then proposed was debated to the end of the afternoon sitting, and adjourned till the evening. The discussion lasted all evening and was again adjourned to the next day, the 10th of March, when it was resumed and concluded: the House thereupon resolved itself into Committee of Supply, and at once took up the consideration of the army estimates.

On the 16th of March the navy estimates were in the paper. On the order for supply being read Mr. T. Gibson Bowles moved to omit all words after "that," for the purpose of substituting "the new scheme of naval training embodied in the memorandum of the First Lord of the Admiralty, dated 16th December, 1902, is calculated, in its present form, seriously to impair the efficiency of the navy, and that, before being carried into effect, it should be reconsidered and modified." The debate lasted through the afternoon sitting, but was finished in the evening, whereupon the committee at once set to work.

On the 2nd of April the Civil Service estimates were put down, and an amendment was moved expressing dissatisfaction with the administration of the Housing Acts. After debate the amendment was rejected and the committee began its discussion of the estimates.

Previously, on the 19th of March, as we shall see in our next chapter, there had been a motion in Committee of Supply for a vote on account in connection with the Civil Service estimates: this proposal also had given opportunity for a general discussion, ranging over the whole field of civil service work: the debate, being under paragraph 6 of Standing Order 15 confined to one sitting, was interrupted by the chairman at the prescribed time, and thereupon the question was put to the vote.

When once the House has resolved itself into Committee of Supply the discussion of the estimates proceeds without any opening for general debate. The discussion is, of course, subject to all rules applicable to debates in committee of the whole House. Members are therefore at liberty to speak more than once to each question. The order of discussion is fixed by the order of the various "votes." The Government has absolute power to settle the order in which they are to be taken; but the principle of notice is applied. The Government are always bound to give due information to the House, by means of the Notice Paper, which estimates, and which particular votes, they propose to take at the next sitting. Great power is thus given to the Ministry, and the time limit established in 1902 materially enhances their

advantage. In the evidence given before the committee on National Expenditure by Mr. T. Gibson Bowles, one of the best authorities of the day on financial procedure, there is a passage describing in striking language the present state of affairs. He says :—

"It is easy enough to perceive that the present methods of selection [of estimates for discussion] are haphazard and inadequate. The Leader of the House does not alone lead the House; he also represents the Government; and as the interest of the Government is to get the largest sums voted in the shortest time, it is apt always to give precedence to the vote of the largest amount, irrespective of the class or number in the class of the vote itself, and as little respective of its importance as an object of debate in that year, and thus to put other votes aside. This, however, is to some extent remedied by the pressure put upon him by members of the Opposition or of his own party, who represent the claims of certain votes to special consideration; but these are votes selected by such members on account of the interest they themselves take therein, which does not always precisely represent the interest belonging to them, either on political or on financial grounds. Up to recent years, however, the Opposition and members interested in particular votes always had a power of bargaining with the Government of the day, and with the Leader of the House as representing that Government. Since the Government must obtain all the votes before closing the session with the Appropriation Bill, which recites and appropriates them all, it was possible, so long as the time devoted to supply was unlimited, to extort concession as the price of acquiescence. But since the new sessional order limiting the number of days to be given to the annual estimates, things are wholly different. The Government now cares nothing whether the debate on particular votes be prolonged or not, for at the end of the twenty or twenty-three days, as the case may be, the guillotine automatically falls, and they get all their remaining votes together, whether discussed or not, and including, as invariably happens, many votes which urgently need much discussion, but have obtained none."[1]

The detailed estimates included in the different classes as brought forward by the Government in the various "votes," are laid before the committee by means of motions and disposed of either by immediate divisions or after amendments have been put. Each "vote" includes as a rule all the expenses of some particular branch of the service, the details of which are specified and are called "items."[2] The first

[1] Report of select committee on National Expenditure, Minutes of Evidence, Q. 1028.

[2] *Vote* is a word of many meanings in parliamentary language; Sir R. Palgrave, when Clerk of the House, gave lucid definitions of the five different uses of the word to the select committee of 1888; Minutes of Evidence, Q. 2.

special rule which distinguishes estimates procedure from that of an ordinary committee is a consequence of the principle stated above: no amendment may be directed to an increase of the amount originally demanded; any change suggested must be a diminution of the estimate submitted. In other words private members are forbidden in committee as well as in the House to move for any increase in expenditure; there is nothing to prevent their proposing a decrease.

The form of the motion made by the Government is stereotyped: it states precisely the total amount demanded and the particular service for which it is destined: the wording is as follows: "That a sum not exceeding £—— be granted to His Majesty *to complete the sum necessary* to defray the charge which will come in course of payment during the year ending 31st March 19— for (whatever the service may be)."[1] Amendments to such a motion may propose to reduce the total amount of the estimate or to reduce or omit some particular item. There are special rules, different to those of ordinary procedure, as to the method of dealing with both kinds of amendment in Committee of Supply. If an amendment to reduce the total grant is moved the original motion is, for the time being, set on one side: a vote is first taken upon the smaller grant proposed by the amendment, or, if there are several amendments, upon the series of smaller sums. It is not until all reduced amounts have been negatived that the principal motion is put to the vote. If it is proposed to refuse or reduce any particular item the following rules apply:—

1. That when a motion is made, in Committee of Supply, to omit or reduce any item of a vote, a question shall be proposed from the chair for omitting or reducing such item accordingly; and members shall speak to such question only, until it has been disposed of.

[1] The words in italics are inserted when the vote is one partly dealt with by a "vote on account." For instance 2 June 1904 (11th allotted day), Civil Services and Revenue Departments estimates. Class II. Motion made, and question proposed "That a sum not exceeding £142,089 be granted to his Majesty to complete the sum necessary to defray the charge which will come in course of payment during the year ending on the 31st day of March 1905, for the salaries and expenses of the Local Government Board" (*Parliamentary Debates* (135), 632). A vote on account of £85,000 for this service had been included in the Consolidated Fund (No. 1) Bill, in pursuance of a grant in Committee of Supply on the 14th March (*Parliamentary Debates* (131), 1060).

2. That when several motions are offered, they shall be taken in the order in which the items to which they relate appear in the printed estimates.

3. That after a question has been proposed from the chair for omitting or reducing any item, no motion shall be made or debate allowed upon any preceding item.

4. When it has been proposed to omit or reduce items in a vote, the question shall be afterwards put upon the original vote, or upon the reduced vote, as the case may be.

5. That after a question has been proposed from the chair for a reduction of the whole vote, no motion shall be made for omitting or reducing any item.[1]

These provisions are in conformity with the spirit of the ancient rule, now practically obsolete as a general principle, that when a question arises which of two sums of money is to be charged upon the people the lesser sum should be first put from the chair. The House can, however, at its pleasure adopt another order.[2]

An anomalous practice, rendered almost necessary by the circumstances of the case, is sanctioned by usage in respect to the debates upon the Navy and Army estimates. Although as a general rule relevancy to the particular vote before the House is insisted upon during debates in Committee of Supply, the first votes under each of these two departments are treated as if they raised the whole subjects of naval and military policy respectively; general debates on the navy and army services are treated as proper. There is no similar opportunity for a general debate in committee upon the Civil Service estimates: the speeches made upon each vote must have direct relation to the service for which it is proposed. It is not always possible to enforce strict compliance with this regulation which, as many rulings from the chair have shown, is administered with considerable elasticity.[3]

The result of discussion on one or more heads of the estimates is a resolution or series of resolutions. The

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[1] These rules were adopted by the House by resolutions on the 9th of February 1858 and the 28th April 1868: though not formally made into standing orders they have been acted upon ever since they were passed (see *May*, pp. 617 *sqq.*, and the chairman's rulings there cited). It is an important rule that reductions must not be trifling (*e.g.* £5), but substantial. In practice the smallest reduction moved is £100.

[2] *May*, "Parliamentary Practice," p. 619.

[3] *Ibid.*, pp. 620 *sqq.*

Chairman reports them to the House, and asks leave for the Committee of Supply to sit again.

We have now to consider the financial work of the House in the strict sense of the word. To put it shortly, the House's work is that of agreeing to the resolutions reported by the Committees of Supply and Ways and Means. The point to observe is that the House has absolutely no initiative in money matters. Initiative lies wholly with the Crown and, to the extent of making reductions, with the Committees. The House itself is a mere *revising authority*. Although it uses all the elaborate apparatus of introduction of resolutions by report, two readings, etc., the part played by the House is essentially that of formal control ; the report also gives occasion for renewed debate.

In accordance with its standing orders the House does not, except in cases of urgent necessity, consider the report of a resolution of either of the Committees of Supply and Ways and Means immediately upon its presentation by the Chairman : a future day is appointed. On the day so fixed the resolution is read a second time : amendments proposing reductions and debates are quite in order, but are not of frequent occurrence : any amendment moved or speech made must be strictly relevant to the subject matter of the resolution. It would also be regular to move that the vote be referred back to the committee.

After the resolution has been read a second time the question is put from the chair "that the House doth agree with the committee in the said resolution"; no amendment or debate is allowed. The agreement almost, if not quite, invariably follows.[1]

Even yet the final step will not have been taken. The resolutions thus agreed to are in theory without legal validity, until they have been embodied in an act of parliament ; the aggregate of all the estimates as granted, and the manner in which they are to be applied for the different services

[1] Refusal on the merits need not be considered : it would certainly lead to the resignation of the Ministry or a dissolution. Practically speaking the House of Commons makes no alteration in the estimates, but accepts them as they are proposed, unless the Government themselves suggest their diminution.

must therefore once more be expressly confirmed. This is always, or almost always, postponed to the very end of the session, when a special statute, the Appropriation Act, already referred to, enacts what is required. The rule, however, must be taken as subject to an important qualification in respect of a unique feature of English financial procedure, the "votes on account," to which we shall shortly return.

The action of the Committee of Supply, however, is, from another point of view, wholly inoperative until another parliamentary form is complied with. The two finance committees have perfectly distinct functions, the one determining the expenditure to be incurred, and the other deciding upon the methods of providing money to defray the cost. To complete the financial labours of the House of Commons it is therefore necessary for the Committee of Ways and Means to do its share. The Committee of Ways and Means—the House under another name, once more—conducts its deliberations like any other committee of the whole House. Such peculiarities as its procedure presents arise out of the special task it has to perform and the above stated rules which govern all English finance law. There are two branches of its work. First it has to authorise the use of the Consolidated Fund for the purposes approved by the Committee of Supply and the House: and secondly it has to consider the methods of bringing the total amount of the Consolidated Fund to the level of the total expenditure for the year, *i.e.*, to determine the necessary amount of taxation and to decide upon the requisite measures for obtaining it. The former function is carried out by means of resolutions in the following form: "Resolved, that towards making good the supply to be granted to His Majesty for the service of the year ending on the 31st day of March 19— the sum of £—— be granted out of the Consolidated Fund of the United Kingdom."

The grants made must agree exactly with the corresponding grants in supply, and it is one of the duties of the Speaker, included in his general superintendence of the procedure of the House, to take care that the Committee of Ways and Means never grants more than has been voted in supply.

The annual grant of the variable taxes, duties, fees, etc. is effected by means of resolutions moved by the Government; they must state precisely the rates of income or other tax to be levied for the coming year, or, as the case may be, the rate of duty for the usual articles on which duties are to be paid or for any new articles upon which duties are to be imposed.[1] An anomalous feature of financial procedure is that *effect is at once given to any resolutions which prescribe a date for the imposition or the renewal of a tax in anticipation of the passing of the formal law—the Finance Act—based upon them.*[2]

The only special characteristic of the procedure in Committee of Ways and Means is that a proposal to increase the amount to be raised by taxes can only be made by a minister of the Crown. The resolutions by which the committee authorises the requisite grants for meeting the supplies, as voted, are reported to the House at the conclusion of the committee's sitting. On consideration by the House of the report of such resolutions no increase of amount is admissible, even though moved by a minister of the Crown. If an increase is wanted, a fresh resolution in committee must be passed.

Every year there is a debate of a general character in Committee of Ways and Means upon the annual grant of taxes:[3] on this occasion the Chancellor of the Exchequer makes his "budget statement;" he explains the whole financial position of the country and lays before the House his proposals for the coming financial year.

"Budget night" is the political high-water mark of the session: Pitt made it what it ever since has been, the most

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[1] As an example from 1903: motion made and question proposed: "That the customs duty now charged on tea shall continue to be charged until the first day of August 1904 (that is to say):—Tea . . . the pound, sixpence" (Chancellor of the Exchequer). (*Parliamentary Debates* (121), 304.)

[2] Increases of duty are treated as effective from the day upon which the resolutions sanctioning them are passed in Committee of Ways and Means. The reason is obvious: any other practice would be fatal to the efficacy of the duty.

[3] The budget statement has occasionally been made in Committee of Supply.

important scene in the drama of government. From Sir Robert Peel's time it has not been unusual to embody the main features of the policy of the Government in the measures of finance then expounded and proposed. The repeal of the taxes on corn and the introduction of free trade had obvious connections with the budget: but other great questions of domestic policy, the introduction and recasting of the death duties, the conversion of the National Debt, the transformation of local government have in their turns formed the kernel of the great budgets of Peel and Gladstone, Goschen and Harcourt. And possibly in the near future the fate of Protectionist Imperialism may be decided upon the budget of some coming year.[1]

The first step towards realising the proposals made by the Chancellor of the Exchequer in his budget speech is the passing, by the Committee of Ways and Means, of corresponding resolutions. Upon the report of these resolutions the House agrees to them one by one and instructs the committee to draw up a Finance bill to give effect to them: the bill is first sanctioned in committee, and then passes through the usual stages, the second reading being made an occasion for debating the whole financial policy of the Government. When it has once passed the House of Commons there is no delay in obtaining the concurrence of the Lords and the royal assent: it is usually passed long before the close of the session.

Turning to the purely authorising function of the committee, its exercise might be postponed till the end of the session if the committee had only to see that provision was made for funds to cover the grants made in Committee of Supply and finally approved by the House. But the Committee of Ways and Means is called upon before the estimates are passed, quite early in the session, to exercise its powers of authorising payment. There are two institutions,

[1] See "The financial statements of W. E. Gladstone, 1853, 1860, 1861." The celebrated "budget" of 1853 was expounded by Mr. Gladstone in a speech of five hours' duration and first gave him a place in the foremost ranks of English statesmen. Between 1853 and 1882 he made no less than thirteen budget speeches. See *Sidney Buxton*, "Gladstone as Chancellor of the Exchequer" (London, 1901), p. 165.

peculiar to English financial methods which render such a call upon the committee necessary. They are the "Supplementary Estimates" and "Votes on account." There is no need here to add anything to what has already been said about the former: but it is necessary to study a little more closely the mode in which the House of Commons provides for current necessities before the final estimates are adopted. The peculiarity consists in the fact that a grant on account, a temporary provision for national financial administration, has been converted into a necessary organic part of the year's finance. As the financial year closes on the 31st of March, and Parliament does not receive the estimates till about the beginning of the same month, it is absolutely impossible for the year's supply to be granted before the year begins. Moreover, the traditional arrangement of parliamentary business makes the extension of the debate on supply over the whole length of the session, or at all events over the greater part of it, an indispensable necessity of political tactics and parliamentary management. On the other hand, the Government must have money by the 1st of April, and can only get it from Parliament. The annual provision required is not made, as in most Continental countries, by giving temporary authority to levy taxes and incur expenses on the same footing as in the old year, nor is there a grant of an aliquot part of the estimated total, as in the case of the twelfths of the French budget. The method adopted brings out clearly the financial supremacy of the House of Commons which grants votes on account, advances on the basis of the estimates laid before the House.

Immediately after the estimates are submitted the army estimates, which are generally the first to be considered, are entered upon, and a motion is made for granting the money required for the pay and wages of the officers and men. The amount of this particular vote is large enough to provide funds for the whole army administration for several months. The same course is shortly afterwards taken with respect to the navy estimates, on the grant for the pay of the officers and seamen of the fleet. These two branches of expenditure are treated exceptionally, permission being annually given in the Appropriation Act to deal with the

grants made to them, subject to the approval of the Treasury, as general grants, and to make temporary use of money voted for one special purpose and not immediately needed, to supply the wants of some other purpose for which no grant or an insufficient grant has as yet been made. Thus, for instance, the War Office, with the consent of the Treasury, may, as a temporary measure, use for the various branches of the army service the money granted at the beginning of the session for pay and wages of officers and men. So, too, with the Admiralty.

The third great division of the estimates, that for the expenses of the Civil Service, is not allowed to be treated like the estimates for the Navy and Army. The heterogeneous character of the services dealt with makes similar treatment inapplicable, or at all events inappropriate. A vote on account, an express advance for the needs of the different services, has to be obtained. Parliament is asked to make an immediate grant of a sufficient sum of money in respect of every service upon which expenditure is anticipated before the definitive vote thereon is taken. When the regular estimates for the services thus treated are subsequently debated by the House, it only deals with the balances required to make up the total sums asked for.[1] As soon as the partial grants are made in Committee of Supply they are reported to the House, and on a subsequent day they are taken into consideration.

The House, of course, agrees to the resolutions and thereupon converts itself into a Committee of Ways and Means. Resolutions are then passed to place at the disposal of the Chancellor of the Exchequer sums from the Consolidated Fund equal to the total of the three amounts granted in supply together with any sums voted by way of supplementary or excess grants for prior years. The payment thus authorised is an instalment towards the total amount to be granted when the whole expenditure is settled. As we shall see, the instalment or, in case more than one Consolidated Fund bill is necessary, the instalments must be deducted from the final grants. The resolutions of the Committee of Ways

[1] See *supra*, p. 140.

and Means are reported expeditiously to the House, and agreed to, often without debate. Directions are given by the House to draw up a bill to carry them into effect, and in pursuance of these directions the first financial bill of the year is introduced. In order to give legal effect to the resolutions of the two committees and the House it is necessary, as we have already pointed out, to embody them in a bill, and to convert this into an act of parliament. The bill referred to is entitled "The Consolidated Fund (No. 1) Bill," and is a short statute authorising the issue from the Consolidated Fund of the amount (exactly specified) of the three grants, and empowering the Treasury to employ the same accordingly. It also gives power to the Treasury to issue bills repayable within the financial year, or otherwise to raise the money granted by borrowing, from the Bank of England or elsewhere, upon prescribed terms. The bill is passed through its various stages with all possible speed and receives the royal assent within a few days of its introduction. In this way the Government obtains its first vote on account; if the duration of the session makes it necessary the same procedure is adopted for a second time, or even oftener.[1]

The combined work of the two committees of the whole House and of the House itself in the strict sense constitutes the special machinery of the House of Commons for dealing with the national housekeeping as a whole. The main stress falls upon the debates in Committee of Supply. The House is the right place for general debates preliminary to the consideration of the estimates. The detailed budget debate of Continental parliaments corresponds to the work of the Committee of Supply. The Committee of Ways and Means, finally, deals with the income side of the account, and annually considers the proposals affecting the revenue, embodying its conclusions in the Finance bill.

It has always been the usage of the House of Commons to delay its final grant of money to the end of the session.

[1] In recent years the Government has been able to satisfy its requirement with one such bill: formerly three bills were not uncommon, and two were generally needed. The principal reason for the change is that lately large votes on account have been asked for and granted in respect of the Civil Service estimates. (See *Parliamentary Debates* (140), 281).

In former centuries the reason for so doing lay in the distrust of the Crown felt by the Commons. For two hundred years and more, however, there has been no cause for such jealousy. But even under modern English parliamentary conditions the custom of spreading the discussion of expenditure over the whole session has proved inveterate. One of the prime causes has been the enormous extension in the range and complexity of the national expenditure; and this has been followed by a growing keenness of the detailed criticism applied to administration as reflected in the estimates. The consequence of these tendencies was a constant lengthening of the time taken by the House over the estimates; the fact that there was no time limit to the debates, while a close of the session before supply was finished was impossible, except in the unusual event of a dissolution, only strengthened their effect. The financial procedure reforms begun in 1896 and continued in 1901 and 1902 have effected a fundamental change in this respect. They have introduced the principle of *fixity*, of adherence to fixed time limits, into the sphere of this, the most important and venerable function of Parliament. As at present drawn up the rules contain the following provisions on the subject:—

Not more than twenty days, being days before the 5th of August, are allotted for the consideration of the annual estimates for the army, navy and civil services, including votes on account. The days allotted do not include any day on which the question has to be put that the Speaker do leave the chair, or any day on which the business of supply does not stand as first order.

The days occupied by the consideration of estimates supplementary to those of a previous session or of any vote of credit, or of votes for supplementary or additional estimates presented by the Government for war expenditure, or for any new service not included in the ordinary estimates for the year, are not included in the computation of the twenty days aforesaid.

On motion made after notice, to be decided without amendment or debate, additional time, not exceeding three days, may be allotted for the purposes aforesaid, either before or after the 5th of August.

On a day so allotted no business other than the business of supply can be taken before midnight [now 11 p.m.], and no business in committee or proceedings on report of supply can be taken after midnight [11 p.m.], whether a general order for the suspension of the twelve [11] o'clock rule is in force or not, unless the House otherwise order on the motion of a minister of the Crown, moved at the commencement of public business, to be decided without amendment or debate.

Of the days so allotted not more than one day in committee may be allotted to any vote on account, and not more than one sitting to the report of that vote. At midnight [11 p.m.] on the close of the day on which the committee on that vote is taken, and at the close of the sitting on which the report of that vote is taken, the Chairman of Committees or the Speaker, as the case may be, must forthwith put every question necessary to dispose of the vote or the report.

At ten of the clock on the last day but one of the days so allotted the Chairman must forthwith put every question necessary to dispose of the vote then under consideration, and must then forthwith put the question with respect to each class of the civil service estimates, that the total amount of the votes outstanding in that class be granted for the services defined in the class, and must in like manner put severally the questions that the total amounts of the votes outstanding in the estimates for the navy, the army, and the revenue departments be granted for the services defined in those estimates.

At ten of the clock on the last (not being earlier than the twentieth) of the allotted days, the Speaker must forthwith put every question necessary to dispose of the report of the resolution then under consideration, and must then forthwith put, with respect to each class of the civil service estimates, the question, that the House doth agree with the committee in all the outstanding resolutions reported in respect of that class, and must then put a like question with respect to all the resolutions outstanding in the estimates for the navy, the army, the revenue departments and other outstanding resolutions severally.

On the days appointed for concluding the business of supply the consideration of that business may not be anticipated by a motion of adjournment, and no dilatory motion may be moved on proceedings for that business, and the business is not to be interrupted under any standing order.[1]

It is probably too soon as yet to appreciate the full effect of these regulations; one of their results is that the House of Commons at the end of the session votes immense sums in a few minutes, many of them for items which have never been mentioned to the House. For instance, on the 9th of August 1904 a sum of £31,224,231 was voted *uno ictu* by the Committee of Supply.[2]

We need now add but little as to the procedure within the fixed time allotted to supply by the rules.

After the grant of the vote on account, as above described, the discussion of the estimates included in the ordinary budget takes its regular course on Thursdays. Each heading or group of headings is disposed of by resolution of the committee, reported to the House and generally agreed

[1] Standing Order 15.

[2] *Parliamentary Debates* (139), 1638 *sqq.*

to without debate. At the same time the Committee of Ways and Means, which is set down for every day, after passing the resolutions needed to impose the necessary taxes and duties, is adjourned from day to day, until the Committee of Supply, during the last few days of the session, finishes the work referred to it. Since the adoption of the supply rule this has always involved the application of the "guillotine," by the help of which a few divisions, occupying scarcely an hour, dispose without debate of all outstanding votes. When the estimates are finished the task of the Committee of Supply is over.[1]

The Committee of Ways and Means at once meets to supplement the work of its sister committee by exercising its function upon the total expenditure for the year as now fixed in supply, less so much as it has previously dealt with; it does so by authorising the issue from the Consolidated Fund of the excess of the estimates granted over the vote or votes on account already passed.

Before the authorisation of the year's expenditure is complete a final step has to be taken—the passing of the *Appropriation Act*. After the Committee of Supply has voted all the estimates, with or without amendment, after the Committee of Ways and Means has authorised the application of money to meet the expenses sanctioned in supply, after the House has considered and adopted, with or without amendment, the resolutions of both committees, the Committee of Ways and Means is charged by the House with the duty of bringing in a bill summing up and ratifying all the resolutions as to expenditure. The resulting bill, the Appropriation bill, consists of but few sections; it begins by authorising the Treasury to issue out of the Consolidated Fund the balance of money required for expenditure in addition to the votes on account. Next comes authority to borrow

[1] Immediately after completing the work of supply the House proceeds to consider the navy and army "appropriation accounts" for the last year but one (*e.g.*, in August 1904 for the year ended 31st March, 1903). These are accounts showing upon which of the navy and army estimates there has been any over-expenditure, defrayed out of savings upon other estimates. Such unauthorised expenditure has to be examined and parliamentary indemnity must be obtained. See, for instance, in 1904, *Parliamentary Debates* (139), 1671 *sqq.*

either on Treasury bills payable during the financial year or otherwise for short periods. The bill then proceeds to "appropriate" the money granted by the bill itself, and also the money granted by the vote or votes on account; that is to say, it directs that the money so granted shall be used for the services and purposes to which it has been assigned by the estimates adopted. Finally, the bill empowers the Treasury to permit certain temporary diversions of money from one branch of the service to another in the case of the navy and army, and gives final sanction to diversions of a similar nature made under corresponding powers in previous acts.

The bill is not circulated like other bills.[1] The first and third readings are formal, but upon the second reading it is customary to have a general debate, unrestricted as to subject matter, and questions of all kinds, domestic and foreign, may be raised and discussed.

The Appropriation Act usually brings the session to a close. The bill is sent to the House of Lords and there formally agreed to; it is then returned to the Commons, and at the ceremony immediately preceding the prorogation it is handed by the Speaker to the Clerk of Parliaments and receives the royal assent.[2]

[1] *Parliamentary Debates* (140), 281: speech of Mr. E. Robertson on 11th August, 1904.

[2] The text of the Appropriation Act of 1904 is printed in the Appendix.

CHAPTER III

The Finance of 1903

TO give a clearer view of the course taken in the House of Commons in discussing the financial measures of a year, we will take as an example the year 1903, and, with the aid of the journal and the "Parliamentary Debates," will sketch the work of the session, so far as it relates to finance, from beginning to end.

17 February: Opening of Parliament and King's speech.

24 February: The Parliamentary Secretary of the Treasury (Mr. Hayes-Fisher) presents the supplementary estimates for 1902.

26 February: The House appoints Monday, 2nd March, for the opening of the Committee of Supply, and refers the supplementary estimates to such committee. The Committee of Ways and Means is also appointed for the same day.

27 February: Army estimates presented and referred to the Committee of Supply.

2 March: Navy, Civil Service and Revenue Departments estimates presented and referred to the Committee of Supply. First sitting of the Committee of Supply, which also occupies the evening sitting, when the supplementary estimates are taken; the sitting closes with the adoption of several resolutions, all formal amendments for reduction having been negatived. Report appointed for next day.

3 March: In Committee of Supply, further supplementary estimates; debate and vote on the estimate for colonial administration and others; report made, to be considered next day.

In the House, the Chancellor of the Exchequer brings up the report of the resolutions on supplementary estimates. They amount in all to £500,827 and comprise £7,500 (Class I) for maintenance of royal palaces, £20,300 (Class III) for prisons, £70,000 (Class VII) for the expenses of the Indian visitors at the Coronation, £10,000 (Class V) for expenses of consular services, &c., &c. The resolutions are read twice and agreed to without debate.

4 March: The House considers the report of the further resolutions as to supplementary estimates, which come to £1,019,800. All the resolutions read twice and agreed to.

6 March: Statement laid before the House by the Parliamentary Secretary of the Treasury as to votes for Civil Service and Revenue Departments requiring a vote on account. Statement ordered to be printed and referred to Committee of Supply.

9 March: The first order of the day is Committee of Supply on Army estimates. Amendment moved, to the question that the Speaker

leave the chair, relating to training of officers and men. Amendment rejected: debate on main question lasts into evening sitting and is adjourned.

10 March: Debate on motion that Speaker leave the Chair concluded. Committee of Supply opened.

In committee, discussion of Army estimates. The Government asks for the pay of 235,761 men (exclusive of Indian forces). Amendment moved to reduce effective strength to 208,756. Debate.

11 March: Committee of Supply. Continuation of debate on strength of army. Closure moved; at first refused by chairman, but finally put and passed. Government proposals accepted. Resolution to be reported next day.

12 March: Committee of Supply (first allotted day). Government motion for grant of a sum of £9,647,000 "for the pay, allowances and other charges of His Majesty's army at home and abroad (exclusive of India) (General Staff, Regiments, Reserve and Departments), which will come in course of payment during the year ending on the 31st day of March 1904." Amendment moved to reduce the vote by £60,000. Motion rejected upon a division, as also a motion to fix the vote at £8,937,000. Mr. Balfour moves the closure. Closure and Government motion carried: report made forthwith.

At the evening sitting, continuation of debate on Army estimates. Motion to grant £1,638,000 for pensions. Three formal amendments moved. Closure moved and carried at midnight. Resolution to be reported on Monday.

16 March (Monday): First order of the day, Committee of Supply on Navy estimates. Amendment proposed to the question that the Speaker leave the chair. The amendment is negatived and, after further debate, the motion for the Speaker's leaving the chair is carried. The committee begins with a vote for 127,100 men and boys for sea and coastguard services, including 19,806 marines. Debate follows and motion carried; resolution to be reported next day.

All earlier reports already among orders of the day adjourned.

17 March: Committee of Supply. Excess grant (Civil services) of £77 15s. 5d. voted. Vote of £6,312,800 for pay and salaries of the fleet proposed; Opposition amendment moved and negatived on division; resolution carried: to be reported next day.

18 March: In the House: discussion of resolutions fixed for Monday next.

In committee: Votes considered—(1) £784,300 for naval officers' pensions; (2) £350,100 for civil pensions connected with the navy. Formal amendments moved and rejected; votes passed.

In the House, Motion to agree with resolution of committee of 11 March as to strength of army. Amendment moved to reduce same by 3,000; negatived. Resolution agreed to. Motions carried for agreeing with resolutions of 12 March, as to the whole pay and wages of officers, non-commissioned officers and men to the amount of £9,647,000, and as to pensions for military officers.

19 March: Committee of Supply. Vote on account (£20,265,000) for Civil Services and Revenue Departments submitted as follows:—

	£	£
Class II.		
Colonial Office - - - -	25,000	
Class IV.		
Board of Education - - -	6,000,000	
Class II.		
Board of Agriculture - - -	65,000	
Class III.		
Crofters' Commission (Scotland) - -	2,000	
Class I.		
Royal Palaces and Marlborough House	40,000	
Royal Parks and Gardens - -	50,000	
Houses of Parliament buildings - - &c. &c. &c.	16,000	
Class II.		
House of Lords offices - - -	2,000	
House of Commons offices - - -	12,000	
Treasury Department - - - (&c., &c. All the departments and offices for administration of England, Scotland and Ireland follow.)	40,000	
Class III.		
Law charges - - - -	35,000	
Supreme Court of Judicature - -	140,000	
County Courts - - - -	8,000	
Prisons (England and Colonies) - - (&c., &c. All the branches of the administration of justice are included.)	340,000	
Classes IV, V, VI and VII follow with details.		
Total for Civil Services - -		13,035,000
Revenue Departments:—		
Customs - - - -	350,000	
Inland Revenue - - - -	830,000	
Post Office - - - -	3,800,000	
Telegraph Service - - -	2,000,000	
Packet Service - - -	250,000	
Total for Revenue Departments - -		7,230,000
Total - -		20,265,000

Amendment proposed to reduce item Class IV, Vote 1, by £100. Debate begun in afternoon sitting; continued at evening sitting. Amendment withdrawn. At midnight, closure applied and vote on account agreed to; resolution to be reported on Monday

The House resolved into Committee of Ways and Means; motions moved and passed (1) "that towards making good the supply granted to his Majesty for the service of the years ending on the 31st days of March 1902 and 1903 the sum of £1,520,704 15s. 5d. be granted out of the Consolidated Fund of the United Kingdom; (2) that towards making good the supply granted to his Majesty for the service of the year ending on the 31st day of March 1904, the sum of £38,997,200 be granted out of the Consolidated Fund of the United Kingdom." Resolutions to be reported on Monday.[1]

23 March (Monday): Suspension of Standing Order 1, so far as concerns the report from the Committee of Ways and Means. Resolutions of Committee of Supply of 16th March, as to employment of 127,100 men and boys for sea and coastguard services, reported. Amendment moved to reduce the number by 4,600; after debate, amendment withdrawn and Government proposals accepted.

Resolution of 18 March as to the strength of the army read; order made that leave be given to bring in the annual bill for the discipline and regulation of the Army. Bill (the Army Annual Bill) introduced accordingly by War Secretary, read a first time; second reading appointed for the next sitting.

Report of resolution 17 March) as to wages, etc., for Navy and Coastguard: resolution agreed to, as also resolutions of the 18th March for naval expenditure.

Resolution of 19 March as to vote on account of £20,265,000 (Civil Services and Revenue Departments) reported and debated: debate continued into evening sitting: resolution finally agreed to.[2]

After midnight the resolutions of the Committee of Ways and Means that £1,520,704 15s. 5d. and £38,997,200 be granted are reported and agreed to: bill to be brought in. The Consolidated Fund (No. 1) Bill at once introduced: to be read a second time on 24 March.

24 March: Second reading of Consolidated Fund (No. 1) Bill: Opposition amendment moved (relating to native labour in the Transvaal), debated and withdrawn; bill read a second time and referred to a committee of the whole House.

25 March: Committee on Consolidated Fund (No. 1) Bill (purely formal): bill reported without amendment, to be read a third time the next day.

26 March (4th allotted day): Committee of Supply. Army estimates submitted and discussed. Votes of £1,920,000 for Engineer services and works and £4,820,000 for war stores. Three amendments

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[1] The £1,520,704 15s. 5d. is made up of the supplementary votes adopted in Committee of Supply on the 2nd and 3rd March, together with the excess vote granted on 17th March. The £38,967,200 is the sum of the estimates passed in Committee of Supply on the 12th, 17th, 18th and 19th March.

[2] All the financial resolutions of both committees are reported to the House and agreed to: it seems unnecessary to mention this on each occasion.

proposed and negatived upon divisions: first vote carried, debate on second adjourned. Resolution to be reported on Monday.

At the evening sitting in Committee of Supply further Navy votes of £1,186,300, £259,000, and £15,500 debated and carried.

After midnight; third reading of Consolidated Fund (No. 1) Bill; order made "that the Clerk do carry the bill to the Lords and desire their concurrence."

27 March (Friday): The Speaker communicates a message from the Lords that they have agreed to the Consolidated Fund (No. 1) Bill: immediately afterwards "Black Rod" summons the Commons to the House of Lords to attend the Lords Commissioners. The Speaker proceeds to the House of Lords where the royal assent is given to the Consolidated Fund (No. 1) Act and two other acts.

The *vote on account* has now been finally granted. No further vote on account is necessary this session.

30 March: Navy and Army estimates (including vote adjourned from 26 March).

2 April: Army Annual Bill passed through Committee. Civil Service estimates introduced: amendment to the motion that the Speaker leave the chair moved, debated, and negatived.

8 to 20 April: Adjournment over Easter.

21 April: Civil Service estimates.

22 April: Civil Service estimates.

23 April: Committee of Ways and Means: Budget statement: Resolution continuing tea duty for a year moved and carried: announcement made of withdrawal of the corn duty and reduction of income tax by fourpence in the pound.

Evening sitting: Committee of Ways and Means: motion continuing for a year the taxes on tobacco, beer and spirits.

27 April: Tea duty resolution reported to the House and agreed to. Finance bill ordered to be brought in.

30 April: Committee of Supply: Army and Civil Service estimates.

6 May: Committee of Ways and Means: debate (adjourned from 23 April) on continuance of customs duties resumed and again adjourned.

11 May: Civil Service and Revenue Departments estimates.

12 May: Ways and means; debate on budget proposals concluded; five resolutions passed and reported.

13 May: Ways and means resolutions agreed to by House: first reading of the Finance bill embodying them.

14 May: Supply: Navy estimates.

21 May: Supply: Civil Service estimates.

8 June: Supply: Civil Service estimates.

9 June: Finance bill: second reading debate, adjourned.

10 June: Debate resumed and further adjourned.

11 June: Supply: Civil Service estimates.

12 June: Finance bill read a second time and committed.

18 June: Supply: Civil Service estimates.

22 June: Committee on Finance bill.

23 June: Committee on Finance bill concluded: bill reported without amendment.

24 June: Finance bill; third reading.
25 June: Supply: Civil Service estimates.
29 June: Message that the Lords have agreed to Finance bill.
30 June: Royal assent to Finance bill.
2 July: Supply: Navy and Civil Service estimates
9 July: Do. Civil Service estimates.
16 July: Do. Army estimates.
20 July: Do. Civil Service estimates.
23 July: Do. do.
30 July: Do. do.
3 Aug.: Do. Army estimates.
6 Aug.: Do. Civil Service estimates.

At 10 p.m. closure applied pursuant to Standing Order 15, and the following outstanding votes passed without debate but after divisions.

I.—*Civil Service estimates.*

		£
Class I.	2 votes - -	133,342
Class II.	23 votes - -	366,072
Class III.	15 votes - -	1,402,874
Class IV.	3 votes - -	854,228
Class V.	6 votes - -	1,236,998
Class VI.	5 votes - -	393,521
Class VII.	2 votes - -	61,082

II.—*Army estimates.*

3 votes - -	783,000

Resolutions all passed and reported. House at once resolved into Committee of Ways and Means where a grant of £75,392,969 out of the Consolidated Fund is agreed to.

10 August: Resolutions of 6 August of both committees considered by the House and agreed to, after debate. Navy and Army appropriation accounts considered in committee of the whole House and diversions approved. Appropriation bill at once introduced.
11 August: Second reading of Appropriation bill.
12 August: Committee on Appropriation bill.
14 August: Appropriation bill read a third time and sent to the Lords, who pass it through all its stages at one sitting. On the same day sixty-two bills receive royal assent through Commissioners, the first being the Appropriation bill. Session terminated and Parliament prorogued to 2 November.

CHAPTER IV

History of Financial Procedure[1]

AT the first glance there does not appear to be much to learn from tracing the history of the forms of financial procedure. The motive power in financial development is not to be found in procedure, but in the growth of constitutional principles, in the acquisition by Parliament of the sole right to grant taxes and in the further evolution of the predominance of the Commons as the true representatives of the nation. We have already referred to this development, which, so far as it bears on our special subject, was completed by the Revolution of 1688.

But there is something more to say. The fundamental principle just referred to secures only *one* of the great functions of Parliament with regard to money matters. Soon after the great change made at the end of the seventeenth century, political experience showed that a second principle must be established before the foundations of parliamentary government could be regarded as secure. It was necessary to gain for the Commons full and unrestricted control over the destination of the money spent, to enable Parliament to check its application and to see that expenditure corresponded to the grants made. The working out of this principle led by degrees to the present financial apparatus of the House of Commons. The form of a bill of supply and the division of parliamentary business between the two money committees of the whole House had long been in existence.[2] But from 1688 onwards the development

[1] See *Todd*, "Parliamentary Government in England," vol. ii., pp. 186–271. The most valuable authority upon the history of English finance is the Report of the select committee on Public Monies, 1857 (No. 279), with the earlier Report of the same committee in 1856, with minutes of evidence (No. 375): the former report was epoch-making in the development and reform of English finance; the most important section is the masterly "Memorandum on Financial Control" drawn up by Mr. (afterwards Sir) William Anderson, the principal clerk at the head of the finance division of the Treasury, and submitted by the then Chancellor of the Exchequer, Sir George Cornewall Lewis, together with a criticism thereon by the then Comptroller General of the Exchequer, Lord Monteagle. Among older parliamentary papers the two most important are the report from the select committee on Public Accounts, 1822 (No. 618), and the report of the commissioners appointed to inquire into and to state the mode of keeping the official accounts, etc. for the public service, 1829 (No. 290). A document of the highest value is the return (in two volumes) on Public Income and Expenditure, 1868–9. See also *Hatsell*, "Precedents," vol. iii.

[2] The form of Committee of Supply as a committee of the whole House goes back to the parliament of 1620: the machinery of two committees (Supply and Ways and Means), starts with the beginning of the Long Parliament. See *House of Commons Journals*, vol. i., p. 510, vol. ii., p. 138.

of law and practice in finance procedure took a new turn: the old framework was retained, but a new spirit was breathed into all the forms of financial management, especially those relating to the expenditure of the state, and the administration of the moneys placed at the disposal of the Government. The complete realisation of the idea of parliamentary control reacted upon the whole organisation of financial administration, just as the vast extension of the latter determined the way in which the great task of modern parliamentary government—*direct parliamentary control over the whole of the national finances*—reached its present shape. The result of the whole process has been to establish in actual fact the vital principle of modern parliamentary government—that of the full sovereignty of the nation's representatives in disposing of the financial burdens borne by their constituents.

We must content ourselves with a mere sketch of the development thus indicated. The end in view, that of explaining historically the procedure of the House in financial business, will guide us in fixing the limits to what should be stated.

The crisis in the history of English finance, from whatever standpoint we regard it, must be taken to be the Revolution of 1688, accompanied as it was by a momentous new departure in English military and international policy. Modern history in English finance begins at the same epoch. The National Debt, the rise of the Bank of England, the comprehensive system of indirect taxation, the annual treatment of finance by the House of Commons, the tradition of large financial operations—all these and their results may be traced back to about the same point of time. And contemporaneously, too, we find the first idea, though as yet far from fully realised, of an effective and permanent control of all expenditure by the House of Commons. The struggle for this essential condition of parliamentary government, gradual in its victory, often relaxed but never abandoned, is the key to the financial history of Great Britain for the past two hundred years; it is the nucleus round which all the financial system of the present day has gathered.

The process occupied more than a century. It may best be followed by regarding the great divisions of the modern estimates as indicating steps in the history of its growth. The charges on the Consolidated Fund, the Civil List and the interest on the National Debt are historically the oldest heads of expenditure and are followed by the grants of supply, *i.e.*, the annual grants for navy, army and civil services. The former group of expenses, still constituting, as permanent charges, an aggregate to themselves, represent in theory the earliest period of undeveloped finance law. The second great division of expenditure, that of the supply services, is the department in which the financial supremacy of the Commons and its whole apparatus of procedure have been gradually worked out. We have seen that corresponding to the distinction thus drawn with respect to expenditure there is a division of the revenue into two sections.[1] The larger part is derived from sources of a permanent character, while the rest (the most important items of which are the income tax and the tea duty) is subject to annual renewal. The peculiarity of modern English finance and financial law lies in the way in which these different elements have been combined: the impossibility of disentangling the two

[1] See *supra*, pp. 126, 127.

kinds of income and the two kinds of expenditure has been utilised to bring about a collective treatment of the finance of the country: it has thus been found possible to secure the application of all the constitutional and political principles of fully developed parliamentary control over the whole range of the national accounts, without altogether destroying the historic form in which they are stated. Constructive conservatism has, here too, succeeded in protecting historic forms and traditions while developing to the fullest extent the new principles of the system of parliamentary government: it would have been a miracle had it in so doing been able to comply with every demand of political theorisers for precision of arrangement.

The chief feature in the whole history of parliamentary finance has been the gradual trenching of the annual element upon the permanent. Decade by decade during the eighteenth and nineteenth centuries the old permanent expenses, for the maintenance of the Crown and for the civil government of the country, declined in range and importance as compared with the new burdens which grew up along with the country's expansion in power and wealth. We can trace the process in the rise and gradual abolition of the civil list, in the creation of the Consolidated Fund, and in the growth of the estimate system, under which the "supply services" receive their annual grants from Parliament. We must now devote some attention to each of these three subjects.

Beginning with the first let us consider the state of the finances in 1688. Down to that date the financial action of the House of Commons had been substantially confined to making a life grant on the King's accession of certain customary taxes, and to granting special subsidies from time to time upon the request of the Crown. They had not made a regular practice of exercising control over the expenditure of state money. Special investigations had occasionally been made to ascertain, after the event, how moneys granted had been spent; such enquiries had usually been made upon a renewal of a request for money. Still, acts of control had been exceptional, the rule having been that the Crown, though not entitled to increase its revenue without consent of Parliament, was perfectly free and uncontrolled in the disposition of all funds properly placed in its hands. There had been neither consideration of estimates nor regular control over actual expenditure. The conception implied by this state of affairs lingered far into the period of parliamentary government and left traces in financial affairs for a long time. The year 1688 only introduced the beginnings of change. At the Restoration in 1660 the Commons had voted to Charles II a sum of £1,200,000 "for the constant yearly support of his Majesty," and James II received a like grant. Upon the accession of William III a fixed sum of £700,000 was granted, but on this occasion there was a definite assignment of the money to specific purposes. The idea and the name of the Civil List appeared for the first time. The first Civil List Act (9 and 10 Will. III c. 23) followed upon a resolution of the House of Commons (20 December 1697) "that in a just sense and acknowledgment of what great things his Majesty has done for these kingdoms, a sum not exceeding the sum of £700,000 *per annum* be granted to his Majesty during his life for the support of the Civil List."[1] The expenses of the navy and army

[1] This is the origin of the term *civil list*, as used both in England and on the Continent.

were differently treated. Certain estimates which have been preserved from the years 1699, 1700 and 1701 show what burdens were placed by Parliament upon the Civil List. There are accounts specifying with the minutest particularity all the regular items of expenditure, hundreds in number, including £100,000 for the royal household, £40,000 for diplomatic services and £80,000 for salaries to all sorts of officials, from the Lord Chancellor down to the most insignificant clerk in the Treasury, and for pensions, etc.

The statements of expenditure thus published were the first regular budgets, and these civil list expenses constituted the ordinary civil expenditure of the day. Their appearance contains the germ of the system of parliamentary control: it implies the duty of the Government—at first only in respect of standing expenditure—to lay estimates before the House, and the corresponding right of the House, though voting them all together in one sum, to direct the mode of using the grant when made.

At the same time there began to come before the House annual demands for supplying the needs of the army, for subsidies to foreign princes, etc., all tending to raise the amount of the yearly charge. The applications made for such grants admitted by their very form the extraordinary character of the demands, though they were constantly repeated even under William III and Anne.[1] They were generally originated by petitions from claimants who had rendered services or advanced money for particular purposes, but at times special messages were sent from the Crown, requesting a "grant in aid."

At first the Crown had full power of disposition over all sums granted in the Civil List: the House of Commons exercised no control whatever over the expenditure incurred. The money voted was, however, always insufficient; the Crown, therefore, was forced to contract debts, and from time to time the House of Commons was asked for special "grants in aid of the Civil List" to pay off the royal indebtedness, a large part of which was, no doubt, a state indebtedness in the true sense of the term.[2] Further, it was found necessary, in order to ease the financial

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[1] See the extremely detailed tables and statistics in the Return of Public Income and Expenditure, 1869, part ii., pp. 585 *sqq*. This report, which was prepared under the direction of Mr. Gladstone, when Chancellor of the Exchequer, is a mine of information upon the financial history of England from 1688 to 1869, and reflects the highest credit upon the officials who drew it up. The history of the Civil List, with full statistical information, appears on pp. 585–607, the history of the National Debt on pp. 512–584.

[2] The average amount of the Civil List under George I was £805,000, under George II £811,000, under George III £965,000 (in addition to certain annuities amounting to £332,788 a year charged upon the Consolidated Fund). From the time of William III to the accession of George III it was the regular practice to allocate to the payment of the Civil List the old duties of tonnage and poundage, the hereditary revenues of the Crown and the income of the Crown estates: any deficiency below £700,000, or later £800,000, was made good by parliamentary grant. When George III came to the throne the Crown resigned all its historic special income to the Treasury: in return the Civil List, fixed at first at £800,000, was charged upon the permanent income of the state as a charge only second to the interest on the National Debt.

position of the Sovereign, to relieve the Civil List more and more from the permanent state expenditure formerly imposed upon it. Both processes were going on all through the eighteenth century and even lingered on into the nineteenth. And at the same time Parliament was struggling for increased control over civil expenditure. The magnitude of the sums used by George III for the maintenance of his personal government led, in 1780–1787, to the first great reforms in financial administration, and these in their turn affected the treatment of money matters in Parliament. In 1780 Burke propounded his great plan for reforming the Civil List, and two years later by the statute 22 Geo. III c. 82, in large measure realised his scheme. The statute divided the Civil List into eight classes including all civil pensions and salaries, the amount of which, under King George's manipulations, had risen to a portentous height. In spite of what was done, however, one of the chief objects of the reform, that of putting an end to the constant deficits in the Civil List and the consequent appeals to Parliament for grants in aid, was not attained. The expense of the regular civil administration was still supposed to be met by the Civil List, though part, as we shall see later, was beginning to be treated differently and to foreshadow the modern parliamentary civil service expenditure: and it was continually increasing. On the accession of William IV (1830) Parliament took a decisive step. Upon the recommendation of a select committee all expenditure not directly "affecting the dignity and state of the Crown and the personal comfort of their Majesties" was removed from the Civil List, which was then fixed at £510,000: on the accession of Queen Victoria the royal pension list was taken over and the Civil List reduced to a sum of £385,000.[1] Thenceforward the Civil List became simply the amount assigned to the Sovereign for life to meet personal requirements. All the other expenses previously included under that title were taken over by the national treasury and paid out of the Consolidated Fund.

The growth of the Consolidated Fund is the second head under which to study the progress of English finance. The traditional idea, as we have seen, was that the annual sums granted to the Crown sufficed to meet the normal expenses of the state. The constant and heavy increases in expenditure after the Revolution made the institution of many fresh permanent sources of revenue an absolute necessity. The procedure usually adopted was the assignment of particular sources of income—generally the produce of certain customs, or increases of customs, or of certain excise duties—to the discharge of particular heads of expenditure. The result was an extraordinary complication in the whole state expenditure and accounts, leading to so much inconvenience and confusion as to call before long for some remedy: the need began to be felt for another fund, in addition to the Civil List, to be fed by definite sources of income and to bear definite charges of a permanent kind. In 1715, therefore, the "Aggregate Fund" was instituted by 1 Geo. I stat. 1, c. 12: an addition of £120,000 to the Civil List was at once charged upon it. In 1760 the hereditary revenues of the Crown were transferred to the new fund, and the whole Civil List was charged upon it. But the old splitting

[1] We may here note that from the eighteenth century Parliament has been accustomed to make special allowances to different members of the royal family, and to make them payable out of the general funds of the state.

up of income and expenditure still continued to a large extent, till a great reform was undertaken by Pitt. In 1786 the Consolidated Fund was formed. There was really nothing new in the idea; it was only the carrying out of the plan of the old Aggregate Fund with greater consistency. The whole revenue of the state, not only a part of the income from permanent sources, was to flow into one receptacle; all the expenditure of the state, not only a certain portion of the expenses, was to be discharged out of it. In short, the statute by which the Consolidated Fund was constituted (27 Geo. III c. 13), marks the transition in English finance from the period of administration of separate funds to the period of unified Treasury management. For this purpose it was necessary to break with the disorder caused by assigning particular taxes to special purposes. Pitt had therefore to effect his second great reform, the consolidation of the minutely subdivided indirect taxation, the various customs and excise duties, by means of a tariff imposing one single duty on each article and directing the total receipts to be used as permanent feeders of the Consolidated Fund. Of course, all the expenses formerly defrayed out of separate items had to be converted into charges upon the Consolidated Fund. As the statute declared, one general fund was to be established "comprehending all the different branches of the revenue and liable to all charges which are now payable out of the same."[1] There were charged upon the income collected into the new Fund, like first mortgages, the permanent expenses of the state, some of which had already been charged in a similar way upon the Aggregate Fund; among them were the interest on the National Debt and the Civil List. They were made payable upon Treasury authority only. As they possessed a permanent statutory basis they did not need a special yearly grant and appropriation by Parliament.

By this time, however, there were a number of new kinds of permanent expenditure which had at their origin been looked upon as temporary and extraordinary expenses quite different to the ordinary outgoings incorporated in the Civil List. They had, therefore, been authorised by annual grants of supply, and the Crown had only been empowered to meet them by a special "appropriation" of funds for the purpose.

In the expenses just referred to we have the second division of the national expenditure: led up to by degrees from the early years of the eighteenth century, it had now reached the stage of full development. All the expenses of the state have, since Pitt's reforms, been either Consolidated Fund charges or annual supply grants. The history of the

[1] See the debates in the House of Commons on the plan for consolidating the duties of customs and excise, *Parliamentary History*, vol. xxvi., 626 *sqq.*; *Annual Register*, 1787, pp. 105 *sqq.* Several decades had yet to elapse before the principle of the Consolidated Fund was fully established. In 1857, Mr. Anderson states in his Memorandum "At a date comparatively recent it was the practice to appropriate particular sources of revenue and moneys raised by loan or otherwise to particular purposes, instead of paying all those moneys to the Consolidated Fund. During the war which ended in 1815, the greater part of the public revenues and other receipts was made directly applicable to the payment of supply services, and was not consequently paid into the Consolidated Fund" (Report on Public Monies, p. 25).

latter is the true history of parliamentary finance; it is the supply grants which come before the House of Commons for annual discussion.[1]

It is not only that the form adopted has given the framework to the enormous developments of British finance since its acceptance: all the machinery of modern financial methods and procedure, the main features of which we now propose to trace, is derived from it.

The material situation with which finance has had to deal may also be traced back to the changes in military and foreign policy inaugurated by William III. One of their immediate effects was the initiation, in connection with the army and navy, of the modern scheme of English finance. After years of incessant warfare, begun in William III's reign, there was only a short respite under the Treaty of Utrecht, followed in quick succession by a series of colonial struggles with France and Spain. A standing professional army became necessary, and needed to be paid for. Hence the need for annual grants to cover the expenses of the state in respect of army and fleet and the cost of wars and fortification. *A new department of public business had annually to be attended to by the House of Commons.* It had to provide each year, by the Mutiny Act, for a definite number of soldiers and sailors, to grant their pay and wages and to vote large sums for ordnance and shipbuilding, in short to undertake the regular charge of supply for army and navy. About the beginning of the eighteenth century, army and navy expenditures took their places side by side with the Civil List. In civil administration, too, fresh permanent "extraordinary" expenditure became necessary, and funds had to be provided for the services taken off the Civil List; new wants and arrangements in the administration both of the central government and of the colonies made additional demands of money by the Crown inevitable: civil expenditure was no longer confined to the charges of the Civil List but comprised a number of expenses only to be met by annual grant. The admirable tables in the return of 1869 make it perfectly easy to trace how the supply grants grew year by year in number and importance. We can see, decade by decade, the supply items of civil expenditure increasing and before long exceeding in amount the Civil List itself. The constantly increasing scope of civil government shows itself in the multitude of items, at first thrown together promiscuously under the head of Miscellaneous Supply Services, and making up the new permanent department of expenditure. The Civil List had for some time been divided into eight classes, and in 1843 the Miscellaneous Services (then several times as large as the Civil List) were divided into seven classes, which with certain alterations have remained down to the present time.[2] Thus towards the end of the

[1] All these disbursements, having regard to the centralisation of the whole income and expenditure in the Consolidated Fund, are paid from this one source. This would be a financial impossibility did not Parliament, by annual grants of special "Ways and Means," bring up the Consolidated Fund to the requisite amount: the permanent income of the Fund is always insufficient to discharge the obligations upon it. The two classes of expenditure, however, are always on distinct footings: the first are legal *charges* upon the permanent revenues of the Fund, state liabilities with statutory validity: the others, legally speaking, are special expenses of the state sanctioned for the one occasion only, and to be made out of the annually granted income.

[2] Return, 1869, vol. ii., p. 653.

eighteenth century or the beginning of the nineteenth we have the three great divisions of expenditure as they have remained to modern days.

The form in which the national expenditure had to be laid before the House of Commons, being dependent on the form of the accounts, has therefore also remained substantially unaltered from the same date: estimates of expenditure, divided into the three heads of Navy, Army and Civil Service have been annually laid before the House on behalf of the Crown. The expression "estimates" appears to have become current in parliamentary language about the second decade of the nineteenth century. Still it was a long time before the form of the estimates and the annual finance accounts enabled Parliament to exercise full and effective appropriation and control. The first requisite was an adequate classification with minute particulars of expenditure. It was further advisable to adopt a form of accounts showing in a clear and perspicuous way the relation between receipts and expenditure—*i.e.*, to present "balanced" accounts. And again it was necessary to transfer more and more of the charges on the Consolidated Fund to the other branch of expenditure, that of the supply services, which alone is subject to annual parliamentary revision. But perhaps the chief defect, from the point of view of control, was the fact that both estimates and accounts as presented to the House were in a "nett" form. Large amounts, such as the cost of financial management, the expense of customs collection, the cost of the postal service, were deducted from both sides of the estimates and accounts. The incompleteness of the annual estimates was therefore not only due to their excluding all expenditure on the Consolidated Fund and Civil List; they did not give full information about the services actually contained in them.

The beginnings of reform were made under Pitt's administration. The Commissioners of Public Accounts, instituted as a Board of Control in 1780, recommended, in their reports from 1780 to 1786, a series of improvements which were only gradually brought into operation. An act of parliament of 1802 (42 Geo. III c. 70) dealt with several of them: a clearer form of estimates and accounts was introduced and ordered to be presented annually to the House of Commons. It was not till 1822 that, upon the recommendation of the Select Committee on Public Accounts, the important reform of presenting annual "Balanced Accounts" for all branches of national administration was effected.[1] The accounts still, however, remained nett in form, though the Commissioners of Public Accounts had in 1831 repeated their old recommendation of 1787 in favour of "gross" accounts. The first report of these Commissioners in 1831 is a landmark in the progress of English finance and account keeping: it was, in the main, the work of Sir Henry Parnell and Sir John Bowring, the latter of whom especially, by editing Bentham's works and by a life of political, literary and commercial activity of a most varied character did great service to his country. Sir John Bowring's first step was the compilation of an exemplary report on French methods of dealing with and accounting for state moneys, and as secretary of the committee he exerted great influence on the composition of its first report. The report itself provided material

[1] About the same time (namely, on the 19th February 1821) the House passed a resolution directing punctual submission of the army and navy estimates on the 15th of January or ten days after the opening of the Committee of Supply (*Todd*, "Parliamentary Government," vol. ii., p. 204).

for a series of reforms in financial procedure. The abolition of the venerable Exchequer as the accounting office, the appointment of a Comptroller-General, the introduction of double-entry book-keeping for state accounts, all of which were effected during the years 1832–1834, were direct results of the proposals in the 1831 report. A little later, when a member of parliament, Sir John Bowring endeavoured to carry out the principles formulated in 1831. Resolutions aimed mainly at the complete adoption of gross accounts were moved in the House and passed in the year 1848. But it was only when the great financial strength of Mr. Gladstone, supported by his political associates Sir James Graham and Sir George Cornewall Lewis, was brought to bear on the subject that measures of thorough reform were taken. In 1854 the principle of gross accounts was established, by the statute 17 and 18 Vict. c. 94: since that date the estimates for the Revenue Departments have been taken along with other grants of supply as separate and independent matters for deliberation. During the next few years, especially in 1856 and 1858, numerous transfers were made from the Consolidated Fund group to the supply group, and finally the great Exchequer and Audit Departments Act of 1866, which completed the new organisation of control over the accounts, put the finishing touches to the modern system of finance.[1] Another matter of the highest importance from the point of view of control was the gradual and careful subdivision of the Civil Service estimates into their numerous and varied heads. The first classification was superseded in 1824, and the modern scheme, which recognises seven classes, was devised in 1843.[2] Since that time the main changes have been in details: there has been a constant elaboration of the votes making up the various classes, and the subheads or items in all three divisions of the estimates have been multiplied with the utmost care and attention.

The origin of the modern method of granting votes on account is also to be found in the first half of the nineteenth century. The cause of their being required is, as before explained, the rule that all grants of money are made for the service of the financial year only, all balances in hand at the end of the year having to be surrendered to the Treasury. The departments, therefore, long before their estimates are voted, need a statutory appropriation of part at least of the money for the year's service. The principle was first applied to the Navy in 1843, then to the Army in 1846: in the financial year 1862–3 it was for the first time enforced with respect to the Civil services and since then "votes on account" have been an annual necessity.[3] The expedient whereby the Navy and Army are allowed to use the large votes for pay and wages as temporary funds available for all purposes could not be adopted for the Civil Service. The mode of raising money for current expenses, by Exchequer or Treasury bills, government loans repayable after a short period, had long been customary.

We have seen that the form and classification of a modern budget arose in close connection with the growth of the military system of the country and the wants of the army: so, too, the fundamental idea by which parliamentary control is applied to the finance of the state was first

[1] See *Todd*, *op. cit.*, vol. ii., pp. 200–203.

[2] Return, 1869, vol. ii., p. 653.

[3] *Todd*, vol. ii., p. 212; *Hansard* (170), 209 (1863); Return, 1869, vol. p. 658.

realised in connection with military and naval administration; it was there that the principle of appropriation was introduced and gave to Parliament unbroken control over every penny of expenditure. The political experiences of the seventeenth century had taught the nation what possibilities of danger to the constitution were involved in a standing army independent of Parliament. On the other hand, from the days of William III the necessity of a standing army was also obvious. The first constitutional change made after 1688, and a momentous one it was, consisted in the institution of the annual Mutiny Act, whereby an army was in fact founded and received a legal status by means of a yearly approval in Parliament, together with a grant of sufficient means to supply a year's needs. The gigantic sums required by army and navy in the subsequent war period—sums far beyond anything known to earlier Governments—led to the maturing of the fundamental principle of parliamentary finance; they roused the House of Commons to demand, and enabled it to secure, an effective control over the application of the money granted.

Thus arose the principle of what is called "appropriation," whereby the administration were confined in their use of money to the exact estimates approved by the House and an express prohibition was laid down against *virement*, the using of funds voted for one purpose to pay the expense of another. The early stages of the movement go back to the reign of Charles II. On the 29th of April 1668 a committee was appointed "to bring in a clause for keeping the moneys granted by this bill of supply in the Exchequer, distinct from all other moneys; and that the money shall be issued for setting out a fleet this summer, and in paying of seamen for this expedition, and to no other use or purpose whatsoever."[1] Another passage from the journals of the same period (7th of January 1680) reads: "Resolved, that whosoever shall hereafter lend, or cause to be lent, by way of advance, any money upon the branches of the King's revenue, arising by customs, excise or hearth-money, shall be judged to hinder the sitting of parliaments, and shall be responsible for the same in Parliament."

The extravagance of Charles II taught the Commons to understand and cherish its rights in respect of money matters. The resolution just quoted was directed against his efforts to obtain money without recourse to Parliament: and the attempts to institute a control over the expenditure of money granted were called forth by the fact that Charles always squandered in unmeasured personal profusion any funds placed at his disposal for purposes of state. In spite of all opposition exerted by Lord Clarendon and other ministers the House thenceforward clung

[1] Upon this passage from the journal *Hatsell* (vol. iii., 3rd edn., p. 81; 4th edn., p. 88) quotes a characteristic remark of Lord Clarendon's upon an analogous occasion, to the following effect: "The Solicitor-General brought in the bill for supply, according to course, in that form as those bills for money ought and used to be; and after it had been read a second time, when it was committed, Downing offered his proviso; the end of which was 'to make all the money that was to be raised by this bill to be applied only to those ends to which it was given, which was the carrying on the war, and to no other purpose whatsoever, by what authority soever' with many other clauses in it so monstrous, that the Solicitor and many others who were most watchful for the King's service declared against it as introductive to a commonwealth, and not fit for monarchy."

to the idea of appropriation.[1] As Hatsell aptly remarks, the idea was, at the Revolution, made "part of that system of government which was then established for the better securing the rights, liberties and privileges of the people of this country. Immediately after that era, all the grants of the Commons that were intended for the service of the current year were in the act of parliament, which carried those grants into effect, applied and strictly appropriated to that specific service. In a bill which passed in the first year of the reign of William and Mary, 'for a grant to their Majesties of an aid of two shillings in the pound for one year' in which a particular sum is appropriated for naval services, very severe penalties are inflicted upon the officers of the Exchequer, if they shall permit any part of that sum to be applied in any other manner than is specified in that act; and these penalties are afterwards referred to and re-enacted in almost all the acts that passed during that reign, which appropriated the supplies granted by the Commons. The Commons, at the same period, took upon themselves the authority of judging as well of the nature, as of the *quantum*, of the particular services recommended to them by the Crown; and voted, of the army, navy, and ordnance, such proportions only as appeared to them, upon due consideration of the state of this country with respect to its foreign enemies and internal defence, necessary and expedient for those purposes. They then provided the supplies sufficient for those services; and, in the acts of parliament which passed for levying the taxes, they appropriated the moneys arising by such duties to the uses for which they were granted."[2]

There were at first some deviations from the practice thus adopted, but after the peace of Utrecht it was revived; and from that time the particular sums voted in the course of each session were carefully appropriated to definite services. The penalties for any breach of the regulations were also generally re-enacted. In this way the principle of appropriation was irrevocably established during the eighteenth century; it has never since been called in question.

In 1711 we find the first army estimate in which the chief individual subheads were appropriated; it amounted to £3,162,687 and was divided into seven votes. The expenses of the navy, on the other hand, were appropriated in one total sum till 1798. Detailed estimates of naval expenditure were not submitted till 1810; and no complete navy estimates were laid before Parliament till 1819.[3]

It was, however, not until the system of book-keeping was reformed and an exact account was taken of the actual expenditure and balance in each service by the system of "appropriation audit" that parliamentary control of public expenditure was made fully effective. In 1832 the system was applied to the navy accounts under 2 Will. IV c. 40; in 1846 the army accounts were similarly dealt with by 9 and 10 Vict. c. 92: and finally in 1866 the Exchequer and Audit Departments Act (29 and 30 Vict. c. 39), made all three divisions of the national expenditure subject to audit.

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[1] A further proof of this is the fact that one of the articles of impeachment against Sir Edward Seymour in 1680 was a charge that he had used for army purposes a sum of £90,000 out of money intended for the navy. (*Parliamentary History*, vol. iv., 1222.)

[2] *Hatsell*, vol. iii., 3rd edn., pp. 179, 180; 4th edn., pp. 202–204.

[3] Return, 1869, vol. ii., p. 671.

From that time parliamentary supervision over the whole expenditure of the state has been realised in the form of a complete parliamentary audit of every branch and detail.[1]

It would be passing far beyond our limits to trace in detail the manner in which parliamentary control over expenditure was strengthened during the course of the nineteenth century; it is now so effective as to give the House of Commons a comprehensive and continuous guardianship over the whole finance of the country: nor can we pause to explain the checks upon payments and the position assigned to the Bank of England. We need only point to the introduction of double-entry book-keeping all through the financial service and the resulting form of the appropriation accounts, to the entire reformation of the system of audit by the act of 1866 above referred to, and to the activity of the sessional Select Committee on Public Accounts, first appointed in 1861, as the means by which administrative and parliamentary control has reached its present high level. The *constitutional* principles of English finance have for more than two hundred years been firm supports to the system of administration; the arrangements which correspond to them have, one by one, been woven into the constitution and been shaped into accordance with the conception of the political sovereignty of the House of Commons. The whole development of financial methods during the nineteenth century has, therefore, been in the direction of purely administrative improvement in independent and non-party control. The Comptroller and Auditor-General, the chief officer of the auditing staff has to see that the whole of the moneys granted for supply services are devoted to the purposes for which they were voted, and has to report to the House of Commons: his legal position is no less an expression of the rights of the House than is the function of the standing committee appointed by the House itself "for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure."

The temptation to append to the foregoing account of financial procedure in the House of Commons some discussion of the constitutional theories on the subject of finance propounded in German treatises during the last fifty years is very strong. Such an enquiry would have the further justification that Rudolf v. Gneist's theory, the starting-point in the growth of the doctrines taught, professes to be deduced by him from English sources. The historico-political importance of his theory is most clearly seen in connection with the history of the constitutional struggle in Prussia: but the scientific influence of his description of English finance law must not be underestimated. It must undoubtedly be regarded as the source of the conceptions out of which the ruling theory of German public law has grown. Indeed the history of the political and theoretical developments of these theories of finance is one of the most instructive and remarkable chapters in the story of Continental constitutionalism, throwing a vivid light upon the inner working of the process best described as the Adoption of English Constitutional Law in Europe.[2]

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[1] Return, 1869, vol. ii., pp. 683 *sqq.*

[2] See *Gneist*, "Gesetz und Budget" (1879); *Gneist*, "Budget und Gesetz nach dem konstitutionellen Staatsrecht Englands" (1867). Laband's budge

But the far-reaching indirect effect of Gneist's financial theories is the best reason for refusing to examine them in this place: we should be led too far from the object in view. It is, however, impossible to avoid making a few remarks on the subject: we shall have to point out that here again German political science must abandon some of the essential positions occupied under Gneist's guidance.

Starting from the division of English state income and expenditure into two parts, one variable, the other permanent, Gneist's theory lays down the following as propositions in English constitutional law—(1) that there is no independent right in the representative assembly to grant money for expenditure; (2) that "the budget" is not law, but is subordinate to the law; (3) that the financial action of ministers rests upon royal orders not upon authority conferred by Parliament; (4) that expenditure is incurred on the strength of royal orders in pursuance of a law enacted by the King or of a special cabinet order. The state housekeeping, according to Gneist, is of the nature of an executive order: the Appropriation Act is a general authority, which cannot be withheld, inasmuch as the House of Commons has already given all the special authorities covered by it and cannot contradict its own previous acts.

Anyone who has followed the foregoing account of financial procedure, and who will take the trouble to read the text of the Appropriation Act of 1904, printed in the Appendix, will at once perceive that all of these propositions are quite incorrect, are absolutely false doctrines, that they run counter to the elementary principles of English constitutional law. It is not too much to assert that Gneist's financial theory is anything but an impartial account of English law: it is the programme of a Prussian politician with a very definite purpose. We have a repetition of a characteristic of Gneist's literary work in other provinces of English constitutional theory: he is anxious to prove—*quod erat demonstrandum*—the impropriety of a refusal of supplies by the Prussian House of Representatives; and in his zeal he ignores all facts which contradict his thesis and even the true meaning of the authorities cited by him. For instance, when maintaining his theory of the constitutional nullity of the Appropriation Act, Gneist himself quotes the Memorandum on Financial Control laid before the Committee of 1857 by the Chancellor of the Exchequer, Sir George Cornewall Lewis. The document itself refutes his argument.[1] The writer expressly says: "The final grant of ways and means to cover the whole of the supplies voted in the session is always reserved for the Appropriation Act; thus, although the House of Commons at an early period of the session might have voted the whole of the supplies of the year, they could still hold their constitutional check upon the minister by limiting the grant of ways and means to an amount sufficient only to last such time as they might think proper to give him the means of carrying on the public service, and they are by such limited grants at all times enabled to prevent the minister from dissolving or proroguing Parliament. The Appropriation Act at the end of the session gathers together the whole of the votes in supply, and the grants already authorised out of the

theory, too, as his book ("Das Budgetrecht nach den Bestimmungen der preussischen Verfassungsurkunde," 1871) proves, started from the Prussian constitutional struggle of the sixties.

[1] The error has been clearly exposed before by *G. Seidler*, in his book "Budget und Budgetrecht," published at Vienna in 1885.

Consolidated Fund to meet in part the supplies voted; the balance of ways and means required to cover all the sums charged on the supplies of the year is set forth in this act, which thus completes the financial proceedings of the session. By this act, therefore, the votes in supply, originally passed by the House of Commons only, receive full legislative sanction."

What a contrast, on this very point, between the theory thus stated and Gneist's air-born contention as to the power of the Crown over financial policy and expenditure in England. Probably on no other subject have Gneist's specifically Prussian monarchic views led him so far astray in his description of English constitutional law. How amazed an English reader must be at the notion that English state expenditure is legally justified by an "order of the royal cabinet," or that the King "enacts finance legislation." Gneist's fundamental mistake is that here as elsewhere he has been unable or unwilling to grasp what was uncongenial to him in the British constitution and especially in parliamentary government: it is only in form that his work is historical; in truth he regards the institutions of the English state unhistorically, and both invents and dogmatises. Since 1688 the Crown has had nothing to do with English finance. In the course of the eighteenth century, by means of the continuous development of the system of annual supply grants, by means of the excision from the Civil List of all expenditure except such as related to the maintenance of royalty, the last traces of kingly influence on the national housekeeping were eliminated. If Gneist in reply points to the great privileges conferred upon the Ministry in relation to supply, we can but refer to what was said on the subject in a preceding chapter, where full explanation was given; they rest upon the fundamental fact that parliamentary government has been invented and maintained. For a century and a half a financial contest between Government and Parliament has been inconceivable, and hence has never taken place. The same explanation accounts for the unquestionable fact to which Gneist refers over and over again, and upon which he lays so much emphasis, that for many decades the number of reductions made by the Commons in the estimates submitted to them has been so trifling as to render such an event a great rarity. The statement is perfectly true and is of great political importance; there has often been severe political criticism in England directed to the point. But no greater mistake could be made than the use of the fact to discredit fundamental principles of constitutional law, instead of seeing in it an inevitable consequence, nay the clearest confirmation, of the system of parliamentary sovereignty.

Questions of finance have long ceased to be constitutional questions in England; strictly speaking they never were constitutional questions. The modern financial system was not initiated until after all the great questions of authority between the various powers in the state, all the fundamental problems of the "constitution," had been settled once and for all. Nowhere so clearly as in financial procedure do the great principles of constitutional distribution of power stand out. It is hopeless to construct a theory of finance law applicable to England, except on the firm basis thus laid down. Here again, as in certain other cases, a total neglect of the *lex parliamentaria* has led Gneist to conceptions, and allowed him to suggest interpretations, which can only be described as serious mistakes in theory and misunderstandings of fact.

BOOK III

THEORETICAL

The Theory of English Parliamentary Procedure

Introduction

BEFORE taking leave of our subject there is yet one more task before us, indicated by the very nature of what has already been done, that of endeavouring to draw from the contents of the foregoing pages such general conclusions as they teach. We have traced the history of parliamentary government in England and of the procedure by which it is carried on: we have studied the legal and political position which it occupies at the present day: it seems but right that we should consider the general constitutional and political problem which presents itself, and examine how far our results provide any theoretical tests applicable to its treatment.

It is to be understood that it is only proposed to make use of the English material here collected. Such a limitation of range will prevent the possibility of exhausting all the questions which arise; but it will not exclude from treatment any of the main aspects of the general constitutional and political problem to be considered in the formation of a parliamentary order of business. Although the different countries which have adopted the English model have been affected by it in various degrees, and have followed different courses of *constitutional* development, the growth of parliamentary government on both sides of the Atlantic and the forms in which it has expressed itself have largely followed the English type; and this is true whether we consider objects or methods. In America parliamentary government is obviously a genuine shoot from the old English stem, even after making the fullest allowance for the independent and characteristic developments of the last hundred years in the United States: in rules and practice, in the spirit and forms of its procedure, it is the legitimate offspring of the tradition of the mother-country: the same is equally true of Australia: in Europe, too, the parliamentary systems

of all modern constitutional states have, without exception, in matters of form—too often in these only—been copies, more or less close, of what was found in England.[1]

On the other hand, it must be remembered that the parliamentary institutions of the great Continental states, especially during the latter half of the nineteenth century, have passed through a stage of many-sided growth which has modified them to no inconsiderable extent: the constitutional laws and notions, taken over in the first instance from English sources, have, in the various countries which adopted them, become blended with an increasing admixture of ideas of native origin, the products of their different histories. The result has been to produce many variations and rearrangements in organisation, sometimes of the strangest kind. At the present day, therefore, it is no simple matter to construct an exhaustive theory of procedure, or to lay down any universal doctrine as to the way of conducting parliamentary business. The basis of induction would have to be a wide one; it would be necessary to investigate the constitutional history of the states of three continents and to compare the relevant legal and political phenomena which they display.

We have no wish to decide, or even to discuss, whether a theory so built up would differ materially from one based on English experience alone: it is clearly to be understood that no attempt at the wider investigation is here contemplated. Two matters alone are to be considered. In the first place we wish to investigate how far a certain definite theory of English parliamentary procedure has influenced the growth of constitutional doctrine in the states of the Continent, and in particular how it has affected the rules and procedure of Continental parliaments. Secondly we wish to inquire how far subsequent development in English parliamentary procedure has shown the need of supplementing this theory in some, perhaps not unimportant, points.

[1] As to the United States, see *L. S. Cushing*'s well-known "Manual of Parliamentary Practice" (revised edition, Boston, 1877); as to Canada, there is the exhaustive work of the Clerk of the House of Commons in Canada, *Sir John George Bourinot*, "Parliamentary Procedure and Practice in the Dominion of Canada" (Montreal, 1892); as to Australia, *Todd*'s "Parliamentary Government in the British Colonies" (2nd edition, 1894).

CHAPTER I

Bentham's Theory of Parliamentary Procedure and its Reception

SCIENTIFIC theory and abstract doctrines have had but trifling influence upon the constitutional growth of England and the formation of its public law: we need not, therefore, be surprised to find that parliamentary procedure was in that country very late in receiving any theoretical discussion, and that even to this day its scientific treatment has there been but scanty. In fact, there has been only one English thinker who has worked out a theory of parliamentary action and procedure, namely, *Bentham*. The all-embracing rationalist criticism of this remarkable man was the first to subject the order of business and the forms of English parliamentary government to scientific investigation. His acute and lucid "Essay on Political Tactics" has no successor in English literature as a theoretical treatise upon the subject.

A glance over the English literature of political philosophy in the last century is enough to prove what we have asserted. For instance, the formerly much read "Parliamentary Logic" by Hamilton is only a collection of expert maxims; it consists of clever, often Machiavellian, aphorisms by a well-versed orator and parliamentarian, and at times approaches mere cynicism: it is a kind of *vade mecum* for a parliamentary politician, nothing higher.[1]

Sir Thomas Erskine May produced the first edition of his book about half a century after Bentham's first publication on procedure: as we have said before, the exhaustive thoroughness of May's work, and its admirable clearness and accuracy have made him the standard author upon parliamentary practice, and he has never yet been surpassed. But however great his superiority to Hatsell as a writer, he was,

[1] *W. G. Hamilton's* "Parliamentary Logick" (London, 1808).

like Hatsell, a pure empiric. The object of his book was to supply the needs of actual work : theoretical considerations did not enter into his scheme. In consequence his masterpiece, in all its eleven editions and with all the enlargements which it has received during its fifty years of life, has remained an empirical work.

The books referred to practically exhaust the literature of the subject. The only other work which has any claim to be included is the notable "Essay on the Influence of Authority in matters of Opinion" by Sir George Cornewall Lewis, a man of the highest eminence as an author, member of parliament and party leader. This unique book, written in the spirit of Mill's system of thought, is a characteristic product of the later utilitarian philosophy : it is one of the rare endeavours to discuss a problem of political psychology. Lewis investigates the origin and justification of "Authority" in the formation of the opinions of mankind, and in the course of his comprehensive philosophical discussion he raises the question of the applicability of the principle of authority to the decisions of political bodies. To this question he devotes his seventh chapter, and he adds a further chapter on the relation of the principle of authority to the democratic principle, and to the representative system of government. In these two chapters Lewis makes a number of striking observations on parliamentary tactics, especially as to parties and as to the majority principle : they must be ascribed, no doubt, chiefly to the deep experiences of his own parliamentary and ministerial career, though he himself, following the traditions of his school, usually casts his arguments into a scholastic form and supports them by quotations from classical authors and appeals to first principles. His book, however, is not concerned with parliamentary procedure on its own account. For the "Philosophical Radicals" the last word on the problem had already been spoken by Bentham. Nor has the great nineteenth century transformation of the English parliamentary system and its procedure, so clearly manifested in the new order of business, led to any recent theoretical treatment of the constitutional problem of procedure.

There is a marked difference between English methods

of treating constitutional science and those adopted in France and Germany, where there is a preference for rigorous system, general doctrines and theoretical investigation; but the period during which English constitutional law was gradually adopted on the Continent produced few writers who took up the special problem of the forms and arrangement of parliamentary procedure. The first German teacher who grasped and pointed out its full importance was Robert v. Mohl. In one of his earliest works, that on the public law of Würtemberg, he took up the subject. No doubt his intimate study of Bentham's ideas and writings guided his steps thither. In the monograph on the literature of English public law in his "*Literatur und Geschichte der Staatswissenschaften*" he first indicated the authorities and works leading to an understanding of English parliamentary law: in his account of Bentham's teaching, a part of his great work, he gives a detailed discussion of the "Essay on Political Tactics." The rise of the German parliament twice induced v. Mohl (in 1848 and 1875) to undertake a minute and fruitful literary treatment of the question of procedure.[1] Both his scientific and his political activity had the effect of bringing the theory and practice of German constitutional law immediately into relation with Bentham and English parliamentary practice as interpreted by him.

The second German jurist who, in the early days of South German constitutionalism, took up the question of parliamentary procedure, Mittermaier, may clearly be seen to have been dominated by Bentham's doctrines.[2]

Let us, however, glance at the history of the way in which the order of business and procedure of the various European parliaments have been drawn up and developed;

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[1] *R. v. Mohl*, "Geschichte und Literatur der Staatswissenschaften," vol. i., p. 310; "Württembergisches Staatsrecht" (1836), vol. i., p. 575; vol. iii., pp. 16, 627; "Vorschläge zu einer Geschäftsordnung des verfassunggebenden Reichstages" (1848); "Staatsrecht, Völkerrecht und Politik," vol. i., pp. 281–321, 361–366; "Zeitschrift für Staatswissenschaft, 1875," pp. 39 *sqq.*

[2] Mittermaier was the author of the article *Geschäftsordnung* in *Rotteck and Welcker's* "Staatslexicon" (1878). His essay is worth reading even now. He treats the question by making a careful comparison between the procedure codes of the French and German chambers.

we shall then find the most convincing evidence that Bentham's views were the starting point and remained the chief source of European conceptions and legal notions on the subject of parliamentary procedure.

The prospect of the opening of the States General in France aroused, in Bentham's practical mind, a desire to help: he saw that the new assembly would have to begin by creating a procedure so as to equip itself for the work of constitution framing. He therefore wrote an essay on the subject, which at first made its way to France in manuscript, was afterwards published in 1791 as a pamphlet, and still later was incorporated into the "Essay on Political Tactics" as its sixth chapter. Its object is to state the rational principles of a *modus procedendi* in a legislative assembly, referring to the scanty original information upon French ideas of procedure as appearing in the meetings of the provincial assemblies of 1787 and 1788, and comparing it with the main features of British practice. As we have already stated, Mirabeau became acquainted with Bentham's Essay before its publication and had it issued in a French translation.

In the introduction written by Bentham in 1791 for the first English version he laments that the event had shown how little French politicians had learnt from the work that had been placed at their service. His regrets may have been justified when he wrote, but they apply only to the very first period of French parliamentary history. The constitutions of France since 1791 and the practice of French parliaments furnish ample proof that many principles of British procedure, laid down by Bentham as rational, were incorporated into French law.

It is quite true that in the French parliamentary system there were, from the very first, certain characteristic modes of procedure of an important nature, which are not to be traced to any English source. The most notable are the following:—The introduction of the notion of urgency, the special significance attached to the sub-divisions (*bureaux*) of the House in the organisation of its work and that of its committees, the entirely different political basis of the President's office, the largeness of the quorum, the free use

of the form of previous question (*question préalable*). But, just as the whole external framework of the French constitution bears the impress of an English mould, so also does French parliamentary procedure, as for instance, in its adoption of three readings for proposed enactments, in its assertion of the principles of freedom of speech and freedom of debate, and in the arrangement of the intercourse between the two houses of the legislature.

It was, however, only too clear from the debates and the practical working of the Constituent Assembly, and afterwards of the Convention, how far the true spirit of the English parliamentary system had escaped its imitators in France. Above all the introduction and application of what Bentham called the "terrible" decrees of urgency proved the complete absence from the minds of the French politicians of the time, of any feeling for one of the fundamental principles of parliamentary life, the protection of the minority.

It is very characteristic of French methods that the theoretical importance of procedure was amply recognised in France, and that endeavours were made to incorporate in the constitution as many of its principles as possible, and thus to hedge them in with special guarantees. In the series of constitutions since 1789, there has, it is true, been a continuous curtailment of the procedure sections. The existing constitution has only one point left, that of Article V, which prescribes the publicity of the proceedings: all else is reserved for the free autonomy of the two houses, which are allowed to compile their own *règlements*.

This is, no doubt, a return to the English pattern, when better understood. It would be most instructive to trace the relations between the developments of procedure in the parliaments of France and England; the adoption of the closure by the House of Commons was a step in the direction of uniformity; but in many points the French chamber has struck out a course of its own. In recent years it has cut down the number of readings, has given much greater scope to the initiative of private members, and has worked out a scheme, entirely different to the English, for the management of interpellations and the free political debates

arising from them. But a discussion of these questions would lead us too far.[1]

It was through France that, during the nineteenth century the rules of procedure of the German legislative chambers were indirectly linked to those of the native land of parliamentary government. As in France, so also in the German states, the growth of procedure at once introduced variations in many points of arrangement and practice; the influence of a living tradition from the old assemblies of estates is here and there traceable, especially in many of the precautions taken by governments and princes against the claims of the representatives of the people.

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[1] There is, of course, no intention of going into any details as to the history of procedure in the French parliament. A few remarks, however, upon the points mentioned in the text may be useful. The first French constitution (3rd September 1791) contains in chapter III, s. 2, Art. 11, an outline of procedure as part of the constitution. There can be no mistake as to its being a copy from the English. Publicity of proceedings, printing of minutes, conversion of the *Corps législatif* into a *Comité Général*, with the vice-president in the chair, three readings to a proposed enactment, prohibition of re-introducing the same measure in the same session, all very concisely stated, are embodied in the constitution. The final clause only, introducing "urgency" shows any French originality upon an important question of procedure. The Girondin constitution of 1793 again deals with procedure (Titre VII, s. 3) in a detailed manner. The special French features of parliamentary management appear here for the first time in the organisation of *bureaux*, the *question préalable*, the preliminary discussion of all legislative projects, etc. The constitution of the 24th of June 1793 lays down in Articles 39 to 52 rules as to the immunity of members and as to procedure, in its characteristic detailed and doctrinaire style. The constitution of the year III again takes up the order of business as a part of the constitution, dealing with it at length in articles 73 to 109, both bodies (the council of 550 and the council of seniors) being referred to. The *charte constitutionelle* of the 4th of June 1814, on the other hand contains only a few procedure regulations; but some are very characteristic. The president of the chamber was to be nominated by the King; all amendments to laws must be assented to by the Crown; a demand by five members for a secret sitting was to be complied with. These rules are quite enough to show who was the spiritual father of this constitution. That of the 4th November 1848 again only includes a few points of procedure, such as the quorum, the principle of publicity, freedom of initiative and urgency; other matters are referred to the *règlement*. See, as to the whole subject, the text of the constitutions quoted, in *Duguit-Monnier*, "Les constitutions et les principales lois politiques de la France depuis 1789" (Paris, 1901): also *Esmein* "Éléments de droit constitutionnel," pp. 688 *sqq.*; *E. Pierre*, "Traité de droit politique électoral et parlementaire" (1893, 2nd edn., 1903).

Mittermaier's essay, above referred to, gives an excellent means of testing, for the German chambers formed in 1848, the truth of what has just been laid down. The universal dependence of German parliamentary systems upon the English pattern was most clearly seen by Dahlmann: in his "*Politik*"—probably the most admirable and influential work in the early literature of German Liberalism—he gives a short but compendious account of English parliamentary procedure and adds the noteworthy conclusion: "The wisdom of these forms of deliberation, the stages in the growth of which can be clearly traced in John Hatsell's sober quartos, and the high degree of general applicability which they display, have been tested beyond their native country, and not only in the free States of North America. Mirabeau tried to make use of them for his National Assembly, and the best German codes of parliamentary procedure can be traced to no other source." [1]

What, then, are the fundamental lines of the theory of parliamentary procedure, as communicated through Bentham to the continent of Europe? The best answer is an analysis of his "Essay on Political Tactics." [2]

As Robert v. Mohl said long ago, this treatise of Bentham's is one of the best works of the great utilitarian. "It may be true," wrote v. Mohl, "that there are others of his writings in which he displays greater originality and creative ability, or applies his logical powers with more irresistible force: but nowhere is there more practical intelligence, more polish, less sophistry." The fact is that the "Essay" differs widely from Bentham's other works by reason of its close connection with positive law. The eccentricity, which only too often disfigures his writings, is almost entirely absent: it only appears in a few passages, for instance in the somewhat grotesque proposal of a system of rewards and punishments intended to secure regular attendance, and in the crotchetty persistence with which he advocates his gigantic "table of motions."

[1] *F. C. Dahlmann*, "Die Politik auf den Grund und das Mass der gegebenen Zustände zurückgeführt" (Leipzig, 1847), pp. 72–79.

[2] In the French edition, in which Bentham's essay was chiefly distributed over Europe, the title is "Tactique des assemblées politiques délibérantes."

The "Essay" is divided into sixteen chapters of very different lengths; the first is devoted to a general introduction dealing with the forms of a representative constitution, and then follow discussions upon the chief questions of procedure. He begins with the principle of the publicity of the proceedings, and goes on to practical remarks on the time and place of assembly, on the share of members in the work, and on the office of president; the sixth chapter, a new edition of the earlier pamphlet already referred to, describes carefully the mode of proceeding in a political assembly in the formation of its decisions: the following chapters are occupied with the analysis of motions and laws, and their rational drawing up and promulgation. Finally come chapters upon debates, amendments, dilatory motions, voting and committees.

The method of exposition which Bentham adopts is, of course, that of logical deduction, of which he had a complete mastery. The leading notions are stated, their content is investigated, and then sub-divided and further analysed. By way of illustration many references are given to French and British practice, more frequently to the latter only. But in truth his use of the deductive method is more apparent than real: on close inspection it may be seen that, in the formation of his ideas, Bentham is simply drawing upon an accurate and discriminating acquaintance with the historic parliamentary procedure of the House of Commons. The forms derived from English procedure are, no doubt, subjected to most minute and logical investigation, but they form the basis of the whole. In this work, more than in most of his writings, the penetrating utilitarian characteristics of Bentham's critical method and thinking stand in a proper relation to the purely practical matter under treatment, and therefore add greatly to the illumination of the subject.

Passing over Bentham's general remarks on the utility and importance of the two chamber system—in itself an excellent political discussion—his theory of parliamentary procedure may be summarised under the following chief heads.

The foundation and indispensable condition of the action of a parliament is stated by Bentham as the law of *publicity*, which he declares to be the fittest law for securing public

confidence. He adduces several direct arguments to prove the necessity of adopting this principle. By publicity the members of an assembly are constrained to perform their duty: by its help it is possible to secure the confidence of the people and their assent to the measures of the legislature: without it the governors cannot learn the wishes and needs of the governed.[1] Further, in an elected assembly, renewed from time to time, publicity is absolutely necessary to enable the electors to act from knowledge, and it provides the assembly with the means of profiting by the information of the public. In his methodical way, Bentham concludes, in a separate section, by refuting all imaginable objections to publicity as a principle.[2]

The fundamental principle of publicity leads to a number of practical demands which Bentham works out systematically. Chief amongst them is the securing of the fullest and most constant publicity for everything that happens or is to

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[1] Bentham's remarks on these two points are among the best proofs of his deep political insight. His excellent description of the disadvantages which want of publicity entails, and of the advantages consequent upon its adoption should be eagerly read where pseudo-parliamentary government is used as a convenient means of maintaining the old absolutist powers and ideas. The whole chapter deserves reprinting: we must content ourselves with one passage. "In an open and free policy, what confidence and security—I do not say for the people, but for the governors themselves! Let it be impossible that anything should be done which is unknown to the nation—prove to it that you neither intend to deceive nor to surprise—you take away all the weapons of discontent. The public will repay with usury the confidence you repose in it. Calumny will lose its force; it collects its venom in the caverns of obscurity, but it is destroyed by the light of day. That a secret policy saves itself from some inconveniences I will not deny; but I believe that, in the long run, it creates more than it avoids; and that of two governments, one of which should be conducted secretly and the other openly, the latter would possess a strength, a hardihood, and a reputation which would render it superior to all the dissimulations of the other." Bentham aptly points out how even a well-meaning, enlightened government, without a sufficient measure of publicity, may gain for itself the most vehement opposition owing to the surprises it prepares; he refers to the examples to be found in the history of the Emperor Joseph II.

[2] Of course Bentham's point of view showed him much to find fault with in the House of Commons of his time. But he points out, with perfect justice, that many of the defects in English parliamentary law, which were thus exposed, had been rendered harmless by the practice of the House.

happen in the House—an idea of the utmost importance and pertinency: unfortunately Bentham carries it to excess by proposing that all motions before the House and its regulations for the time being should at all times be kept literally before the eyes of the members by the help of large tables, upon which the text of the motions and rules should be displayed in letters legible at a great distance.

From the postulate of complete publicity for all parliamentary action Bentham deduces his practical suggestions and rational principles for securing the full attendance of members of the House.

The second great principle which underlies Bentham's theory of procedure is that of the absolute *impartiality of the president.* To this end he lays down that there ought to be only one president, chosen for a long period of time, but that a substitute ought always to be available. According to Bentham the president of a representative assembly has functions of two kinds: he is a judge as between individual members, and he is an agent of the whole assembly. In the first capacity he ought, in every instance, to be subordinate, in the way of appeal, to the assembly itself: in the latter, he ought, in every instance, to be subject to the control of the assembly. In neither capacity ought he to possess any power the effect of which would be to give him any control over the will of the assembly. In order to enable him to act without partisanship as judge and executive officer, the president of a parliamentary body must be completely excluded from the field of parliamentary activity. If a member, he must no longer possess a member's rights of making motions, of taking part in debate, and of giving a vote. None can be a judge whose whole demeanour is not raised above all suspicion of partisanship.

It need scarcely be said that Bentham had arrived at this theory of parliamentary presidency by critical observation of the position of the Speaker. "If we consider," he says, "what has been practised among different nations, we shall find that almost all these rules have been forgotten. The English system, which most nearly approaches to them, differs in an essential point. It allows the president to

deliberate and vote." [1] The growth of English practice was, as we have learnt, soon to give satisfaction to Bentham's requirement. For more than two generations the Speaker has been the very incarnation of parliamentary impartiality.

The third of Bentham's fundamental principles concerns the forms of parliamentary procedure themselves; he points to the necessity for a precise separation, both in form and in substance, between the different stages in the formation of the will of a political assembly, and for a strict observance of the definite logical order of these stages. Proposition, debate as a means of expressing the views of members, and voting are to be kept from intermixture. They must follow strictly in order, and must be governed by a further rule, namely, that of the unity of each parliamentary action. The only rational course is to debate *one* question, to ascertain the will of the House upon *one* matter, at a time. The commingling of different subjects in debate is as objectionable as the confusion of separate stages in the formation of a decision.[2] The practical requisites laid down by Bentham—the rule that all motions and amendments must be drawn up in writing, the definite mode of drawing up laws, and dividing them into clauses—are but logical inferences from this principle.

The fourth fundamental principle in Bentham's theory is a demand for complete *freedom of speech*. Bentham extends this notion in a remarkable way, saying that complete freedom of speech only exists when each member is allowed to speak as often as he wishes. From this point

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[1] Bentham also regards the Speaker's casting vote as a mistake, preferring the rule *semper presumitur pro negante*, or in cases of election, a resort to lot.

[2] The detailed accounts given by Bentham of the practice in French provincial assemblies and the course of proceeding in the States General of 1789 are very interesting; in the last-named body statements of reasons followed the giving of votes instead of preceding them. Bentham argues convincingly that this practice, so contrary to all rational rules of conducting business, was an unconscious result of the strong influence exerted upon French parliamentary procedure by the eighteenth century jurists. In English courts of justice it is still the rule that the judges first give their votes and then state their reasons at length. Bentham, with great clearness and insight, adduces good reasons to show why this order is both logical and practical in the case of judicial decisions (*loc. cit.* p. 345).

of view he disapproves of every kind of external expedient for quickening the rate of work in the legislative machine, from a *decret d'urgence* down to the simple prohibition of repeated speaking. On the contrary, he maintains, the principle of freedom of speech is not satisfied unless the rules, within certain limits, allow the opposition several chances of prolonging a debate.

The formation of a united will is the object for which every parliamentary body exists. It is *a priori* conceivable that, to this end, the complete agreement of all members of the assembly might be demanded. As, however, with human nature such as it is, unanimity can only seldom be attained, even in bodies of a moderate size, it is a common custom to attribute to the united will of the majority the same effect as would be given to that of the whole body. By this train of thought Bentham arrives at the *principle of the majority* as a theoretical basis for parliamentary government : it seems so obvious to the great rationalist that he does not feel the necessity of describing or analysing this fundamental right of the majority. "How far soever the will of the simple majority may be from the really universal will, it is nearer to it than the contrary will."

The foregoing series of main principles comprises Bentham's whole theory of the order of business and procedure of parliament. They are enunciated as if they were deduced from the "Idea of a political assembly"; but, to tell the truth, they are nothing but the results of a discriminating study of the characteristics of the British Parliament at the end of the eighteenth century : the utilitarian standpoint is maintained with sufficient clearness to enable Bentham to take a critical measure of the positive law, and to detect the divergence of certain elements in English parliamentary procedure from the universal and rational standard. It was in the theoretical shape given to it by Bentham, admirable in clearness and consistency, that English parliamentary procedure was introduced to Continental notice, was received into constitutional theory, and became effective as an important component in the formation of Continental constitutional practice.

CHAPTER II

Theory of the Order of Business

BEARING in mind the fundamental dependence of Bentham's theory of procedure upon the historical conditions of the House of Commons, it is easy to see on what lines a critical attempt to solve the problem of a parliamentary order of business must now be conducted. No doubt the main principles laid down by Bentham are still perfectly sound: they are based upon the experiences of English parliamentary life gathered in its five hundred years of growth; they express to perfection the technical requirements for the formation of the will of a legislative assembly and for the state action of such a body. They rest ultimately upon the elementary psychology of human combination for action, and on the elementary necessities of any arrangement.[1] But here too, as in all conceptions which explain and arrange the life of the state, theory must not grow rigid; when treating of phenomena which are subject to historic growth it must be capable of development and must be developed.

Let us then review our steps and examine Bentham's theory and the constitutional doctrine as to the order of business in the light of the progress of parliamentary government in England—for the present in England only—during the nineteenth century. Certain salient facts will at once present themselves to our minds, indicating the elements in the problem of procedure which have been modified by recent political developments, and the points in which the constitutional theory of parliamentary procedure has itself been subjected to alteration and extension.

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[1] The psychological elements in parliamentary government may, having regard to the small variation in the psychic factors of human nature over long periods of history, be looked upon as tolerably stable. Of course differences in the stage of civilisation produce large variations, as also do national peculiarities, upon which the efficiency of parliamentary government is largely dependent.

There are, ultimately, two vital features of political life to which no attention was paid in framing the traditional doctrine of the order of business, but which have long since acquired the greatest importance both in theory and in practice. In the first place stands the problem of the general relation of the *Government*, the custodians of executive power, to Parliament, and in particular the special relation of the Ministry to the conduct, arrangement and leadership of parliamentary business. Secondly comes the question of the relation of the *parties* to the rules of business, the problem of reconciling the rule of the majority with the protection of the minority. These two questions, in the course of the nineteenth century, forced their way to the front, first in England and then—details are unnecessary—to a greater or less degree in most of the European states which are governed on constitutional principles: in combination they presented a new problem in politics and constitutional law, one of the greatest difficulty, and with the most far-reaching ramifications. It is hardly too much to assert that the question raised by their joint appearance was the only new problem of importance which confronted European constitutionalism in the second half of the nineteenth century.

It need not be said that the old theory, as expounded by Bentham, contains no reference to the difficulty just referred to: indeed, when the theory was launched the political conditions which lead to it were practically non-existent. It must be admitted that by Bentham's time the growth of parliamentary government had made considerable progress; but the period of his political maturity fell just in the years occupied by the protracted fight between George III and the Whig oligarchy; it witnessed the political transformation, which, in despite of all the King's efforts, had the effect of extinguishing the will of the Crown as an independent component in the life of the state: it was the time when the substitution of trusted agents of the parliamentary majority for real servants of the Crown was finally accomplished. It is a remarkable fact that Bentham, like the majority of his contemporaries, was blind to the full constitutional significance of the great changes which had, step by step, been effected in the nature of the English

Ministry since 1688. The relation of the Government, the ministers, to the House of Commons as the predominant will-forming power in legislation and policy is only slightly alluded to in the "Essay on Political Tactics." Hence the absence of any dogmatic discussion of this relation, which in the nineteenth century became so important. The political apparatus by means of which English ministries of the *ancien régime* conducted their parliamentary campaigns was, of course, clear both to Bentham and to all his contemporaries; it was, indeed, so clear that the coming problem of a sharply formulated machinery of parliamentary government was completely hidden from him. The ultimate reason why he missed it was that in the time of George III the system of parliamentary party government was not yet so fully matured as to have shown its final results. "The enemy" to Bentham was the King—George III—against whom as "corrupter general" he was ceaselessly contending in his pamphlets. As opposed to him, Parliament, though temporarily corrupted and misled, appeared to the Radicals, of whom Bentham was one of the foremost pioneers, to be the instrument of the popular will, the means of thwarting the selfish purposes of the sovereign. Thus the theory of procedure and the order of business presented itself to him as the science of the tactics and needs of a political body always on its guard and armed for defence against an external foe. True, the reign of George III is the classic period of party struggle among the members of the English oligarchy; but in the course of this work we have had many occasions for noting the peculiar character of all the parliamentary factions of the *ancien régime*. The social homogeneity of the ruling classes, their ardent patriotism and the inherited feeling of responsibility in the power-holding section of society were enough to ensure the smooth running of the parliamentary machine and the regular despatch of its business; there was no risk of its failing to perform its duties to the state.

Thus in Bentham's theory the law and practice of Parliament is, in the first instance, a system historically determined; it is an analysis of the claims and needs of corporate action constructed, psychologically speaking, *a posteriori*, and

can only be applied without reserve to the internal arrangement of an assembly, the special character of which is one of social and political uniformity, in which therefore it is safe to reckon upon the formation of a corporate will. Nothing can be more illuminating than one of the few passages in which Bentham refers to political parties. In his analysis of the subject of three readings he defends this institution of English positive law, and endeavours to justify it by arguments to prove its reasonableness. If a single debate, he urges, were to decide the adoption of a law great heat and animosity would be produced ; but if it is known that a first victory is not sufficient—that the struggle must be renewed a second and a third time—strength is reserved, "and the party in the minority, which gradually sees that its ultimate defeat approaches, gives way to it with the more moderation, inasmuch as it has been allowed every opportunity of preventing it." [1]

It will be seen how Bentham regarded the tactics and modes of thought of political parties. It never entered his mind that there might be absolutely irreconcileable parties, which would only be spurred on by defeat to fresh exertions, that there might be minorities who would never submit without trying every conceivable means of carrying their wishes into effect. When Bentham wrote, the memory of the fierce party antagonisms and religious struggles of the seventeenth century had long since faded away, and, as yet, there had arisen no new real party divisions, corresponding to radical, complete severances of whole classes or sections of the nation from the rest. There was an entire absence of the conditions which raise the intensity of the political struggle to its highest pitch, when—as the events of the nineteenth century proved in Great Britain before all other countries—the arrangements and forms of Parliament become both the weapons and the object of battle. In Bentham's day, the parties, notwithstanding their antagonism on certain questions, were filled with the same sentiment towards the state, and possessed it in the same degree. The periodical transfer of the majority from one party to the other, com-

[1] *Bentham*, vol. ii., p. 361.

pared in the nineteenth century to the swing of a pendulum, and the consequent changes in the Government, did not leave the minority hopeless, and there was, therefore, no sting in the victory of a temporary majority. Nor was the social equality of the two parties less effective: it prevented party rule from implying helpless subjection of the minority to the will of the Government over the whole range of public life. Self-government in local administration remained undisturbed for hundreds of years, and removed almost the whole of the management of town and country life from the sphere of action of the parliamentary majority: the situation was entirely different from that in one of the Continental parliamentary states with a centralised administrative organisation. Finally, English party government seldom called upon the majority to insist upon the absolute performance of its will at all costs. The whole atmosphere of acquiescence, with which English party life has surrounded all questions affecting the current requirements of state life, has limited the necessity for struggles *à outrance* to a few critical points of politics. Moreover, the feeling of the universal benefit conferred, as a rule, by strenuous and powerful opposition is one which centuries of experience have worked into the very flesh and blood of the English nation. Over and over again it has been seen that the energetic resistance of a minority has roused the entire country to take part in political life, and has brought a whole subject up for discussion in all its aspects: hasty measures have been checked, and proposals for large alterations in the law have been modified by way of compromise, and in the end have been only partially carried out.

The feeling of the need for opposition and the experiences which support it have led to the characteristic tendency of English procedure which finds expression in the strong emphasis placed on the *protection of the minority*. It is interesting, in this connection, to quote the words with which, in the middle of the nineteenth century, an experienced Liberal statesman referred to the treatment of minorities. In discussing the safeguards against the dangers caused by the acceptance of the majority principle, Sir George Cornewall Lewis says, "Another check upon the majority of a

deliberative assembly is derived from the forms of its proceedings. These forms are generally so arranged, as to secure to the minority the power of stating their objections both to the principle and details of every measure proposed for adoption by the assembly, and of retarding its progress by adverse criticism, and the moving of amendments. The forms of the English House of Commons are avowedly contrived for the protection of minorities; and they are so effectual for their purpose as frequently to defeat the will of the great body of the House, and to enable a few members to resist, at least for a time, a measure desired by the majority." [1]

The whole system of political tactics had, of course, to be altered when a change took place in its chief premiss —the nature of English parties, and the resulting position of the Government in the House of Commons. We know that the formation of the compact irreconcileable Irish Home Rule party actually brought about such a change. But even before this epoch-making event the altered relation of the Government to the House had produced many changes in the order of business. The complete and final establishment of strict parliamentary party government took place at a time when, in spite of the extension of the franchise, the old historic parties retained much of their old character: it produced, among other results, a cheerful acceptance of the parliamentary Ministry as the leaders of the House; they came to be regarded as its directing will power in the arrangement and carrying on of its business. By slow degrees the rules of procedure were made more subservient to the needs of the Government. The time and strength of the House of Commons came more and more to be regarded as the time and strength of the government of the state. Such is the true meaning of the reforms in procedure effected between 1832 and 1878. The change was slow, and was never so radical as to endanger the political foundation of English procedure, the ample scope left to the action of the minority. The chief growth in Government influence upon the conduct of parliamentary business was in the

[1] "The Influence of Authority in matters of Opinion," pp. 150, 151.

direction of a greater assumption of initiative, at the expense of private members on both sides of the House. The order of business began to take the shape of an effective instrument of government, a working apparatus for the Ministry. But it was still based upon the historical foundation of concurrence and mutual "fair play" between the parties.

The incursion of obstruction put an end to this, and made it necessary to abandon the old conception of the order of business: it had ceased to be a means of parliamentary party government used by a governing class, representative of the whole nation and possessed of like feelings for the state in all its particular groups: it had to be changed once more into *a means of asserting power*. But now the enemy was within, not without. The Irish attacked the legal basis of the Empire, and therefore the very existence of the Imperial Parliament. Under the pressure of political events the order of business was transformed into an instrument of coercion against an adversary held, against his will, in the Union and in Parliament.

Hence came the great impulse to the further changes in the system of procedure which we have traced in detail above. The obstruction of the Irish was, no doubt, overcome, but the spirit of obstruction survived. And by its side there arose a kind of non-political obstruction; the volume of business was growing incessantly larger, the number of members taking an active share in the work of the House was constantly increasing, and parliamentary activity was stimulated in all directions and to such an extent as to cause serious delay in the transaction of the affairs of the state. The first result was to cause the Government to be invested with still further privileges in respect of the time and arrangement of parliamentary business. But the difficulties were only lessened, not by any means overcome. And it cannot be ignored that, from the time of the great Home Rule controversy, there has been a permanent intensification of the sharpness of party contrasts, though its strength has varied from time to time. The South African policy of the Imperialists, the semi-religious struggles upon the Education question, the revival of agrarian controversies, the recent nation-shaking discussion called forth by Mr. Chamberlain's

Imperialist Tariff policy, and finally the long duration of the Conservative party *régime*, have all strengthened the spirit of resistance to the majority and in turn have driven the Government to make the fullest use of its power.

Such is the political atmosphere in which the latest procedure reforms have been produced. As above shown, they are to be regarded as the extreme conclusions which English parties have drawn from the inexorable logic of the system of *parliamentary* government. They are at the same time indispensable as a protection to the system, enabling it to maintain its efficiency. Only as such can they or ought they to be regarded. Thus the order of business has grown to be an instrument of government, at the present day one which has become essential. The reforms of the eighties were directed only against the Irish enemy in the House: but the closure, the parliamentary "guillotine," in short all the weapons in the arsenal of an impatient majority, were soon applied to the carrying of purely English measures against keen party resistance. Such action amounts to an admission of the sheer technical necessity of the modern form of procedure: the House of Commons, like the parliaments of all other modern great states, needs it in order to cope with the overloading which it has to bear, in order to counteract the dissipation of strength caused by the splitting up of modern party life, which, in its turn, has arisen from the infinite divergence of social and economic interests at the present day.

Focussing once more the results of our retrospect we may arrive at certain important conclusions which will be useful in the search for a solution of the problem set before us. The political development of our own day has laid bare—in the first instance in England, and then in nearly all the constitutional states of Europe—the *conventional* foundation of parliamentary government. Parliamentary conventions appear above all in the forms of parliamentary action, in the limitations to party strategy imposed by the inviolable bounds of the rules and in the tacit agreement among all who take part in parliamentary life to handle these rules in a reasonable way. It has further appeared that, though the observance of these conventions does, to a certain

extent, depend upon the social character of the membership, a far more important consideration remains : parliamentary conventions are only effective, and the parliamentary government which they support is only possible, when there is an *acceptance of the constitutional basis* upon which state and parliament are founded. Irreconcileable parties, which oppose an existing union of states or stand for a subordination of state to church, parties which reject the whole framework of society, or which draw their life from a principle only less deep and powerful than that of religion, the principle of nationality, are all in mortal conflict—latent if not apparent, possibly unconscious for long periods—with the conventions of parliament ; they are, therefore, knowingly or unknowingly attacking parliamentary government itself, at all events in the form known to the constitution. Obstruction is, in reality, nothing less than a *repudiation of the existing constitution of the country*, intensified to the point of denying the right of its parliament to exist, and expressed in a conscious misuse of the forms and principles of procedure essential to the efficiency of parliamentary action. Except within these rules, conventions and forms parliamentary work is impossible : without their protection there is no security that the political assimilation necessary for the sustenance of the parliamentary organism can be obtained. It was no mere coincidence that the assault on the British constitution by the principle of nationality brought obstruction to maturity. On looking round in Europe, wherever we see a similar spectacle, we find that it is almost always a conflict of nationalities, a struggle against existing unions of states which has brought it forth.

There may, then, be political feelings of such depth as to threaten the allegiance of an individual to the state in which he lives ; his political views may have deeper and firmer roots than his patriotism ; they may spring from religious emotion, or from a feeling of nationality ; in the future, perhaps, a craving for social or economic equality may produce the same effect : in all such cases the *majority principle*, a fundamental convention upon which all parliamentary government is built, must needs begin to lose its moral force. At the same time and to the same degree the

principle of protection for the minority begins to suffer from decay. There is a total collapse of the system of ideas of representative government, based as it is on understandings and a common loyalty, which find in the principles and forms of parliamentary procedure their most refined and sublimated expression.

From this point of view we may assign to the order of business in a national representative assembly its special significance in regard to the general constitutional and political situation. It is, as it were, *a political pressure-gauge, indicating the tension in the parliamentary machine and thence in the whole organism of the state.* An attack upon any of the great fundamental principles which we have learnt to recognise as the theoretical bases of procedure is a danger signal. If equality among members, or publicity of the proceedings, or freedom of speech, or the majority principle is consciously challenged by one of the constituents of parliamentary life, we have an indication of the existence of some serious internal defect in the life of the state. This observation, as many incidents in the political history of the nineteenth century have proved, leads to the important theoretical result that the order of business of a parliament is a matter falling entirely within the province of law. If we enquire as to the position which it occupies in the whole system of public law, we must begin by observing that the law of parliamentary procedure is not of uniform texture. Many of its rules and principles express the general requisites for the existence of representative government and summarise the conditions necessary for the action of a national representative assembly which exercises, or at least shares in, the supreme functions of the state : these rules belong therefore, theoretically speaking, to constitutional law, whether they are embodied in the fundamental laws of the state or not. To this class belong the principles of equality of members, freedom of speech, freedom to choose a president, the impartiality of the chair, and also the forms and principles which in a bicameral system regulate the intercourse between the two houses of the legislature. Above all it is a matter of constitutional law that, within the broad framework provided by the principles just stated, a parliament should possess the

unfettered right of regulating its procedure by autonomous ordinances.

The sum total of the autonomous ordinances constitutes the second, essentially different, section of procedure law. Their object is to lay down the technical rules needed for the carrying on of parliamentary work; the regulations and forms which they prescribe must of necessity, wherever a representative assembly acts as a healthy and vigorous organ of government, be such as to assist the executive in providing with regularity for the vital wants of the state. That is their main object, but no matter of principle is involved in them. They are merely the results of translating into action the constitutional elements of procedure, deductions from them and methods of carrying them out. In a well-arranged constitutional state they can therefore never have the force of constitutional principles, they are not to be regarded as primary public law, existing as ends in themselves. The purely technical law of parliamentary procedure is a secondary branch, a means to a definite end. We may therefore state as a theoretical conclusion that *change in the purely technical part of the order of business should be elastic, subject only to conditions which can be complied with without difficulty.*

It must, however, never be forgotten that in the practical application of any theoretical results regard must invariably be had to the actual political circumstances of the case, to the true "constitution" of the state with which we are concerned. Parliamentary government as a system of law is intimately connected with parliamentary government regarded as a political system determined by history and by national and social characteristics. As the nature of the political functions of a parliament is determined, primarily, by such considerations, so also, though secondarily, are the corresponding functions of the law of its procedure. Hence the important problem how to alter the provisions of a code of procedure, like the question what can be expected from such a code, is *not to be solved theoretically as a matter of constitutional law but practically as a matter of politics.*

Returning to our metaphor, we have next to observe that a pressure-gauge may be either badly constructed in the

first instance or may become worn out : in both cases it will act badly as an indicating apparatus. By analogy we remark that an order of business may sin against the theoretical rules which ought to be followed in every parliament, or may become antiquated : if so, it may lead to the result that tensions in the body politic, not dangerous in themselves, may act with undue violence or bring about and prolong political disadvantages which circumstances do not really warrant. In such a case, not only is reform in the law of procedure called for ; we may be confident that it will be followed by a rapid improvement in political health. But he would, on the other hand, be a clumsy, nay a criminally ignorant engineer, who hoped to overcome dangerous pressures of the steam in his machine, faithfully indicated by the pressure-gauge, by tinkering at it so as to cause it to give false readings, or, worse still, dispensing with it altogether. Applying the metaphor, it would be a fatal mistake for a statesman, confronted by serious and deepseated shortcomings or political strains in the affairs of the nation, to attempt to put everything right by reforms in procedure, which would prevent opposition from coming to the surface and would otherwise injure the spirit of parliamentary government and the very essence of parliamentary procedure. Again, parties and politicians who attack faults in the constitution of the state by using the technical arrangements of parliamentary action as tools, not for the work of the state, but for political warfare, should realise what they are doing : they are giving the rules of procedure a fictitious importance, treating them as if they were political ends, instead of means only ; they must take into account that thus they may be injuring, destroying, annihilating, those elements of the order of business which do exist for their own sake, which are, in truth, parts of the constitution itself. It may be, it often will be, the case that obstruction is taken up for this very purpose, with the express object of attacking the constitution. It is a question which may well be raised, but can hardly receive a theoretical answer, whether it is at all conceivable that struggles involving the existence or destruction of a state or of a union of states can be carried through under the forms of parliamentary government.

Philosophic theories cannot decide whether a given state of affairs falls under one head or the other: it is for the practical statesman to judge whether he has to face a reform in the procedure of the representative assembly or a reform in the constitution of the state. But a clear theoretical analysis of the problem raised by parliamentary government and the law of its forms, an analysis such as has here been attempted in the classic instance of England, may render important service to him in his decision. It may teach him to recognise what is indispensable for enabling parliamentary institutions to discharge their appropriate functions, and rightly to appreciate both the fundamental conditions of efficiency in parliamentary procedure and the limits to what it can perform.

SUPPLEMENTARY CHAPTER

BY

SIR COURTENAY ILBERT, K.C.S.I.

SINCE the publication of Dr. Redlich's book in 1905 three important changes have been made in the procedure of the House of Commons—alteration of the hours of sitting, extension of the system of standing committees, and improvement in the mode of taking divisions.

References to the need for improvement of parliamentary procedure were made during the general election of 1906, and when the new parliament met in February of that year no time was lost in bringing forward proposals for that purpose. On the 28th of February 1906 the Chancellor of the Exchequer, Mr. Asquith, moved the appointment of a select committee "to consider the question of procedure in the House of Commons, and to report as to the amendment of the existing rules, and upon any new rules which they may consider desirable for the efficient despatch of business."[1]

The motion followed precisely the terms of that adopted at the instance of Sir Michael Hicks Beach on the 22nd of February 1886. After some debate the motion was carried without a division. On the 15th of March a committee of fifteen were nominated, and the committee appointed as their chairman Sir Henry Fowler, an experienced veteran in parliamentary business. It was understood that they would exercise their power of presenting interim reports, and of thus submitting their conclusions in successive portions or chapters.

The first report of the committee was presented on the 22nd of March 1906,[2] and recommended changes in the time-table devised by Mr. Balfour in 1902. There was a general agreement that the time-table of 1902 had not worked well.

[1] *Parliamentary Debates* (152), 1153.

[2] First report of select committee on House of Commons procedure, 1906, No. 89.

It was notorious that the plan was due in some measure to the difficulties experienced by Government Whips. The parliament of 1900 was not a very hard-working body. Attendance was slack, especially towards the beginning and end of the week. The arrangement which suited many members best was one which would absolve them from attendance except when critical divisions were to be expected, and which would fix the probable time for those divisions at some points conveniently before and comfortably after the usual dinner-hour. The "interruptions" at 7.30 and at midnight provided such points. But they also provided points up to which a dilatory talker was tempted to prolong his speech, knowing that, if he succeeded in reaching them, further progress would be inevitably suspended. Nor was it easy to bring back the strayed revellers after dinner. Old parliamentary hands, on both sides of the House, had always felt doubtful about the dinner-hour experiment. "Domestic felicities" have their attraction, but Mr. Gladstone and his predecessors in the office of Prime Minister knew what they were about when they severely tabooed dress clothes on the Treasury bench. Nine, or even ten, o'clock was found inconveniently early for deserting a cosy home or a hospitable house, and difficulties arose during the evening sitting, especially when a perverse Opposition took to claiming divisions at unorthodox hours.

The parliament of 1906 was found to contain a smaller proportion of habitual diners out than its predecessor, a larger number who were content with a frugal and hasty meal within the precincts. And it soon appeared[1] that the members of this parliament were set on two things : first, a postponement of the hour of meeting, which, under the system of 1902, trenched severely on necessary morning work at Government offices, in committee, in the city, or at home ; and, secondly, fixing of the hour of rising at a time when the man of small or moderate means could make sure of getting home with the help of a public conveyance. But they were also full of zeal for work, and the problem was to combine shorter parliamentary hours with sufficient

[1] See the debate of February 28, 1906. *Parliamentary Debates* (152), 1159–60, 1164, 1175, 1181, 1187.

time for necessary parliamentary work. The problem was solved by a sacrifice of the hour and a half which Mr. Balfour had given to dinner. And so the committee recommended, and the House agreed upon, abandonment of the system of double sittings, and reversion to a single sitting which, as the result of a compromise, was eventually fixed to begin at 2.45, and to end, normally, at 11.

The report of the committee described the arrangements then existing under the rules of 1902 and made the following recommendations :—

(1) That instead of double sittings there be single sittings, beginning at 3 p.m. and ending at 11.30 p.m., except for unopposed or certain exempted business; that 12.30 o'clock be substituted for 1 o'clock in subsection (2) of Standing Order 1; and that there should be a brief informal suspension of business, such suspension to terminate at 8.30;

(2) That the asking of questions should commence immediately after private business is disposed of, or in any case at 3.15 p.m., and end at 4 p.m., except as to the questions mentioned in subsection (3) of Standing Order 9;

(3) That opposed private business, which would, under Standing Order 8, be postponed to an evening sitting, and any motion for adjournment, which would, under Standing Order 10, stand over to an evening sitting, be taken at 8.30 o'clock, the business which would otherwise be then under consideration being postponed for that purpose;

(4) That the Deputy Chairman of Ways and Means, as well as the Chairman of Ways and Means, be empowered to take the chair, as Deputy Speaker, under Standing Order 1;

(5) That unofficial members' motions and bills now taken at evening sittings be given precedence at 8.30 p.m. at those sittings, but that no opposed private business other than that then under consideration be taken after 9.45 p.m.;

(6) That Friday be the day for the short sitting;

(7) That, on Friday, 5 be substituted for 5.30 as the hour for ending the sitting, and that there should be no suspension during the sitting.

This first report of the select committee was taken into consideration on the 2nd of April 1906, when the Prime Minister, Sir Henry Campbell Bannerman, moved a series of amendments of standing orders which were based upon, but did not precisely follow, the recommendations of the committee.[1]

The first question raised by the Government amendments was whether the House should revert to the old practice of

[1] *Parliamentary Debates* (155), 195–7.

having a short sitting on Wednesday instead of on Friday. In 1902, when Friday was substituted for Wednesday as the "private members" day, many of the older members on both sides of the House were against the substitution, regarding it as an unnecessary concession to "week-enders" which removed a useful break in the week's work. There was a similar division of opinion in 1906. A majority of the committee were in favour of retaining Friday for the short sitting. The Prime Minister was personally in favour of reverting to Wednesday, and moved an amendment to that effect, but left the point as an open question to be decided by the House. After a debate and a division, which did not proceed on party lines, the majority of the House pronounced in favour of Friday. And the short Friday sitting owed its retention, not to the fashionable "week-ender," but to the large class of hard-worked men who require an interval at the end of the week for attending to their legitimate business elsewhere.

As to the hours of sitting on other days, the Government proposed that on Monday, Tuesday, Wednesday and Thursday there should be a single instead of a double sitting, and that this sitting should begin at 2.45, and end, normally, at 11.15, except for unopposed and "exempted" business. But Mr. W. Redmond having moved an amendment to substitute 3 for 2.45, in accordance with the recommendations of the committee, a compromise was arrived at by retaining 2.45 for the commencement and substituting 11 o'clock for 11.15 as the normal ending of opposed business.[1]

For the purposes of dinner, the committee had recommended a "brief informal suspension of business" terminating at 8.30, in fact, reversion to the arrangement which, before 1902, used to be known as "the Speaker's chop," and under which the Speaker used to leave the chair for an undefined interval between 8 and 9. But the House took a sterner view and declined to sanction this. Accordingly, the sitting is, under the existing practice, unbroken from its commencement to its termination, and when the Speaker retires for his dinner his place is taken either by the Chairman of

[1] *Parliamentary Debates* (155), 234.

Committees or by the Deputy Chairman. For this purpose the rules were so altered as to enable the Deputy Chairman, as well as the Chairman, to act as Deputy Speaker. Nor is there any interval for the Speaker's luncheon on Friday.

These alterations involved several technical and consequential amendments of standing orders, but all the necessary amendments were adopted in the course of a two days' debate on the 2nd and 3rd of April 1906,[1] and it was resolved at the conclusion of the debate that the amendments of the standing orders should not take effect until after the Easter recess, which was then approaching. The House reassembled after Easter on Tuesday, the 24th of April, and on that day met at 2.45 for a single sitting, in accordance with the new rules.

The effect of the changes made by the House in April 1906 may be stated as follows :—

(1) On Monday, Tuesday, Wednesday and Thursday there are single sittings, beginning at 2.45 p.m. and ending at 11 p.m. except for unopposed or "exempted" business. There is no interval for dinner, and at 11.30 p.m. the House automatically stands adjourned, unless exempted business is then in progress.

(2) On these days the time for asking questions begins immediately after private business is disposed of, or in any case at 3 p.m., and ends at 3.45 p.m. except as to the questions mentioned in subsection (3) of Standing Order 9.

(3) Opposed private business which, before 1906, would, under Standing Order 5, have been postponed to an evening sitting, and any motion for adjournment which would, under Standing Order 10, have stood over to an evening sitting, is taken at 8.15 p.m., the business which would otherwise be then under consideration being postponed for that purpose. A count-out is not allowed between 8.15 and 9.15 p.m.

(4) The Deputy Chairman of Ways and Means, as well as the Chairman of Ways and Means, is empowered to take the chair, as Deputy Speaker, under Standing Order 1.

[1] *Parliamentary Debates* (155), 195–246, 381–408.

(5) Unofficial members' motions and bills previously taken at the evening sitting of any day are now given precedence at 8.15 on that day, but no opposed private business can be taken after 9.30 other than that then under consideration.
(6) Friday remains the day for a short sitting.
(7) On Friday 5 is substituted for 5.30 as the time for "interrupting" opposed business, and 5.30 for 6 as the time for adjournment, and there is no informal interval for luncheon.

The long unbroken single sitting has probably been conducive to the despatch of business, but imposes a severe strain on a minister who cannot rely on an adequate understudy when he wants to dine. But the earlier hour of rising, notwithstanding the suspensions of the 11 o'clock rule from time to time made necessary by press of business, has been felt as a sensible relief.

The second chapter of the work undertaken by the committee on parliamentary procedure raised more difficult questions than the revision of the time-table, and occupied their time between Easter and Whitsuntide in 1906. They had to grapple with the eternal problem of economising parliamentary time. Parliament has to pass laws for, and control the administration of, the United Kingdom. This task alone, if properly performed, would transcend its capacities and endurance. But Parliament is also supposed to discuss the affairs of a world-wide empire. The labour is too gigantic. Every year the machine breaks down, and its failure is confessed. What is the remedy? The popular answer is devolution. If by devolution is meant delegation of limited administrative or legislative powers to local authorities, it raises grave political and constitutional questions, and obviously lies outside the scope of a select committee on parliamentary procedure. But if it is confined to the narrow sense of devolution to committees of the House of functions performed, or supposed to be performed, by the House as a whole, it becomes a proper subject of deliberation by such a committee. And, moving within these limits, the select committee of 1906 enjoyed the advantage of having precedents to follow and a well-trodden path to pursue.

The early history of the committees of the House of Commons has been sketched in a former part of this work.[1] The system of committees of the whole House appears to have grown up by a kind of accident in the first half of the seventeenth century, and to have become stereotyped in the eighteenth century. The stages of development can be traced in the journals of the House. In the sixteenth century we find bills referred, after second reading, to small committees of two, three or more persons, who sat, sometimes at Westminster, sometimes at Lincoln's Inn, or the Temple, or other convenient places. In course of time larger committees were appointed for more important bills or subjects. Then came orders or usages under which it was arranged that anyone might attend, and "all who come are to have voices." And then these larger committees sat in St. Stephen's Chapel itself, but without the Speaker, with a chairman of their own, and conducting their proceedings in the less formal fashion of a committee. When the dinner-hour was noon, and the formal business of the House was finished before dinner time, these committees sat in the afternoon, whilst daylight lasted, for artificial light was not much used.

When general attendance was scanty, and difficult to secure, and when the Serjeant-at-arms scoured Westminster Hall for "gentlemen of the long robe" to make up a quorum, the system worked fairly well. Those who came to the committee were few; those who took any active part in its proceedings were still fewer. The discussion was limited to the very small number of men who knew anything about the subject, and were able to speak upon it. Now, when every member is capable of speaking on almost any subject, and is expected by his constituency to speak on many, the conditions are wholly different, and the difficulty of requiring a committee of 670 persons to settle the terms and language of a technical and complicated document has become more apparent.

To Sir Erskine May is due the credit of making suggestions which have had the effect of diminishing the legislative work required to be done in what is called a

[1] See *supra*, vol. ii., pp. 203 *sqq.*

committee of the whole House, but is really the House itself transacting business in a less formal manner. He always felt strongly the objections to the procedure in this so-called committee, and, when giving evidence in 1854, said, "Whenever you can avail yourselves of the services of a select committee instead of a committee of the whole House, it is an advantage."[1] His suggestions for the better disposal of legislative work took different forms at different times. In the article which he contributed to the *Edinburgh Review*, of January 1854, he suggested that the House might be divided, for legislative purposes, into six grand committees, somewhat after the fashion of the "bureau" system which prevails in the French and other Continental legislatures, though with material differences as to the constitution of the committees. But in his evidence before the select committee which sat in the following month the suggestion which he put forward was that committees of the whole House on public bills, with a smaller quorum, should sit in the morning twice a week. The time, he suggested, would be arranged so as to suit the convenience of the different members of the Government. "One day bills would be discussed which were under the charge of the Board of Trade; on another day bills in the charge of the Home Office or the Treasury, and in that way a considerable amount of business might be disposed of at the morning sittings, without deranging the general business of the House."[2] His notion was that these morning committees would only be attended by members specially interested in the bill under consideration. But he was also in favour, as has been seen, of making more extended use of select committees, and he suggested that, in the absence of a special order, a bill which had come from a select committee should not be required to pass through a committee of the whole House.

A good many years later, in 1878, he inclined to something intermediate between a committee of the whole House and a select committee. What he then suggested was that committees upon public bills should be specially constituted

[1] Report of select committee on the business of the House, 1854 (No. 212), Evidence, Q. 281.

[2] *Ibid.*, Q. 288.

and have permanent functions not limited to a single bill. For this purpose, he thought, a committee of considerable size might be constituted, mainly of members permanently sitting, and competent to represent the general opinion of the House, aided by members appointed specially to serve in regard to particular bills. When these bills were disposed of, the service of the latter members would be concluded, and other members would be added in respect of other bills. He thought that such an arrangement might very greatly aid the course of legislation, and might provide a substitute for committees of the whole House on many bills of secondary importance.[1] These suggestions were merely thrown out incidentally in the course of evidence before the select committee on public business which sat in 1878, and were not embodied in the recommendations of that committee. But they bore fruit a few years afterwards in the resolutions which, at the instance of Mr. Gladstone, were passed in 1882 for setting up two standing committees on law and trade respectively. These resolutions were only temporary in their operation and were allowed to drop after the session of 1883. In 1886, whilst they were in abeyance, a strong committee on parliamentary procedure, with Lord Hartington as chairman, and the late Sir William Harcourt and Sir Michael Hicks Beach among the members, presented a report in which they recommended a revival and extension of the standing committee system.

Their recommendations on this subject were :—

That every public bill after the second reading, except a bill originating in the committee of ways and means, or a bill for the confirmation of any provisional order, unless the House shall otherwise order, shall be referred to a standing committee of the whole House.

Standing committees shall be constituted at the commencement of the session by the committee of selection, who shall divide the whole House into four such committees, twenty members being a quorum. In the constitution of such committees the committee of selection shall have regard to the composition of the House.[2]

These recommendations were not adopted by Mr. W. H. Smith when he undertook a revision of the standing orders in 1888. He contented himself with reviving Mr. Gladstone's

[1] Report of select committee on public business, 1878 (No. 268), Evidence, Q. 211.

[2] Report of select committee on parliamentary procedure, 1886 (No. 186), I., paragraphs 1 and 2.

resolutions, which were converted into permanent standing orders.

The standing committees first established in 1882, and revived in 1888, have done much useful work. They have considerably relieved the time of the House, and the debates conducted in them have been for the most part of a sensible and business-like character. In recent years, however, and especially during the parliament of 1900, complaints were made that their working had been less satisfactory. In some cases, it was said, there had been obstruction, in other cases there had been lack of interest and consequent failure to make a quorum.

At the end of the session of 1905 the chairmen's panel, that is to say the body from whom the chairmen of the standing committees are chosen, presented a special report in which they reviewed the working of these committees. They said that in their origin the standing committees were intended to deal with such classes of legislation as consolidation, improvement of various branches of the statute law, and other kindred matters, but that during the last two or three years it had become the custom to refer to them a different class of bills for which their procedure was not intended or adapted. They expressed an opinion that it was not desirable to refer to standing committees bills which (*a*) arouse strong party or political controversy or excite acute religious susceptibilities, or (*b*) are not referred to them by a substantial majority of the House. In the event, however, of such bills being still referred to standing committees, they thought that the chairman should have powers of closure corresponding to those exercised in committee of the whole House. They suggested the consideration of rules restricting the duration of speeches, and limiting their number, and also made suggestions for better securing the attendance of members. And finally they suggested that the distinction between the committee on law and the committee on trade should be abolished, and that bills should be referred to either committee according to convenience.[1]

This was the state of things found by the select committee of 1906, when they came to consider the devolution

[1] Special report of chairmen's panel, 1905 (No. 261).

of legislative work. They thought it necessary to take some evidence, of which that given by Mr. Balfour was specially interesting,[1] and eventually they agreed upon a report substantially based on the recommendations made by the committee of 1886.

The second report of the committee of 1906 was presented on the 25th of May in that year, and the recommendations made by it were as follows :—

1. That when a bill has been read a second time, it shall, unless the House otherwise order, stand committed to one of the standing committees.

But this rule shall not apply to

(*a*) bills for imposing taxes, or consolidated fund or appropriation bills, or

(*b*) bills for confirming provisional orders.

2. That the number of standing committees be not less than four, that their existing distinctive names be repealed, that they be distinguished as standing committee A, B, &c., and that the quorum be 30. The power of determining whether any addition to the normal number of standing committees is at any time required, to remain with the House.

3. That bills be distributed among the standing committees by Mr. Speaker.

4. That in all but one of the standing committees Government bills have precedence.

5. That Standing Order 19 (as to irrelevance and repetition) and Standing Orders 26 and 27 (as to closure) apply to standing committees, with the substitution (in Standing Order 26) of the chairman of the committee for the chairman of ways and means, and in (Standing Order 27) of 20 for 100 as the number necessary to make the majority effective for the closure. The procedure in standing committee shall be in accordance with procedure in committee of the whole House and not in a select committee.

6. That if a standing committee on a bill so resolve, on motion made by the member in charge of the bill, the committee may, without an order of the House, sit while the House is sitting, provided that the committee shall not sit after 4 o'clock without an order of the House. The motion shall be decided without amendment or debate.

7. That the power of the committee of selection to discharge any member of a standing committee and to appoint another member in his place be exercised in cases where, in their opinion, a member fails to give due attendance.

8. That the House have power to commit a bill to which paragraph 1 applies to a standing committee in respect of some of its provisions, and to a committee of the whole House in respect of other provisions, but if this procedure is adopted, the standing committee shall not proceed with the consideration of the portion of the bill committed to it until the other portion has passed through committee of the whole House.

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[1] Reports of select committee on House of Commons procedure, 1906 (Nos. 89 and 181), Evidence, pp. 10–27.

No time could be found for the discussion of these recommendations during the session of 1906. Notice of proposals based upon them was given by the Government during the autumn sitting of that year, but, in the crowded condition of legislative business, it was impossible to find an opportunity for their discussion. In the session of 1907 the Government gave notice of similar proposals, with some modifications. The most important of these modifications was the proposal to set up a special standing committee which was to consider all bills relating exclusively to Scotland and committed to a standing committee, and which was to include all the members representing Scottish constituencies.

A special Scottish committee had, at the instance of Sir George Trevelyan,[1] been set up in the session of 1894 and 1895 and had done useful work on the Local Government (Scotland) bill and other bills, and there was a general desire on the part of the Scottish members to make a Scottish committee a permanent feature of the standing committee system. The Government proposed to fix the number of standing committees at four, instead of making four a minimum number, and to retain twenty as the quorum instead of raising it to thirty. They originally proposed to adopt the recommendation that the procedure in standing committees should be assimilated to procedure in committee of the whole House, but dropped the proposal on finding that it would create more difficulties than it would remove. They added a provision that the chairman of a standing committee should have the same power of dealing with dilatory motions as the chairman of a committee of the whole House.

These proposals were brought before the House by the Prime Minister on the 20th of March 1907. They met with a much less friendly reception and had a much more stormy passage through the House than the time-table proposals of 1906, and the debate on them occupied several

[1] Sir George Trevelyan's proposals in 1894 and 1895 gave rise to animated and protracted debates. See the debates of the 2nd, 5th, 17th, 20th, and 27th of April, 1894, and the 9th and 23rd of May 1895. (*Parliamentary Debates* (22), 1116–1215, 1487–1503, (23) 648–741, 991–1032, 1588–1613, (33) 822–894, (34) 170–188.)

days.[1] The opposition was conducted mainly on party lines, and the discussions were acrimonious.

The first day and a considerable part of the second day, the 25th of March, were given to a general preliminary debate. On the second day, Mr. Laurence Hardy's proposal to set up a business committee, and to leave to this committee the decision whether any particular bill should or should not be committed to one of the standing legislative committees, did not meet with much support. Nor did the proposal to exclude private members' bills from the automatic committal to standing committees find much more favour, though supported by Mr. Balfour. On the third day, the 26th of March, words were inserted to explain more clearly the procedure on a motion negativing the committal of a bill to a standing committee. When the debate was resumed on the 11th of April, after the Easter recess, not much progress had been made, and a great deal of time was occupied by a series of amendments excluding various classes of bills from those which were presumably to go "upstairs." The Government announced their intention of resisting all these amendments, and of adhering to the broad principle recommended by Lord Hartington's committee of 1886, that, except in the case of finance and provisional order bills,[2] all bills should go "upstairs," unless the House decided otherwise. The 11 o'clock rule had been suspended, and preparations had been made for an all-night sitting, but towards the end of the sitting the Government changed their tactics and announced for the following Monday a resolution limiting the time for discussion of the proposed new rules. This "guillotine" resolution was moved and carried on Monday, the 15th of April,[3] and the Government added to the amendments of which they had given notice an amendment which extended the right of speaking on the report stage of a bill which had been committed to a standing committee, and another amend-

[1] *Parliamentary Debates* (171), 890–935, 1529–1613, 1672–1723, and (172) 403–491, 714–720, 779–919.

[2] The difference between the exceptions recognized by Lord Hartington's committee and those proposed by Sir Henry Campbell Bannerman and adopted by the House in 1907 is merely verbal.

[3] *Parliamentary Debates* (172), 631–686, 691–711.

ment, proposed by Welsh members, for putting all members representing constituencies in Wales and Monmouthshire on standing committees dealing with bills relating exclusively to that part of the country—a very small class. The Government proposals were then discussed on the evening of Monday, the 15th of April, and the discussion on them was brought to a conclusion on Tuesday, the 16th of April, in accordance with the resolution of the previous day.

The changes made are now embodied in Standing Orders 46 to 50.

The new Standing Order 46, which lays down the general principle as to the reference of bills to standing committees, runs as follows :—

Standing Committees.

46.—(1) When a bill has been read a second time, it shall stand committed to one of the standing committees, unless the House, on motion to be decided without amendment or debate, otherwise order, and such a motion shall not require notice, must be made immediately after the bill is read a second time, may be made by any member, and may, though opposed, be decided after the expiration of the time for opposed business. But this order shall not apply to—

(*a*) bills for imposing taxes, or consolidated fund, or appropriation bills; or

(*b*) bills for confirming provisional orders.

(2) Provided that the House may, on motion made by the member in charge of a bill, commit the bill to a standing committee in respect of some of its provisions, and to a committee of the whole House in respect of other provisions, and that if such a motion is opposed the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who makes and from the member who opposes the motion, shall without further debate put the question thereon.

(3) Where a bill has been committed to a standing committee, or has been so committed in respect of any provision, then, at the report stage of the bill or provision, the rule against speaking more than once shall not apply to the member in charge of the bill or to the mover of any amendment or new clause in respect of that amendment or clause.

The new standing order reverses the previous presumption as to the mode of dealing with public bills at the committee stage. It proceeds on the view that when the general principle of a bill has been affirmed on its second reading, a reasonable chance ought to be afforded of having its provisions discussed, that this chance is improved by sending a bill to a standing committee, that, as a general rule, discussion in a standing committee is more business-like and effective than discussion in a committee of the

whole House, and that the time of the House is saved by dividing the House into compartments for discussing the details of legislative measures. Thus reference to a standing committee is made the normal, instead of the exceptional, practice. The main exceptions, to be decided by the House in each case, will probably be where the issues raised by a bill are of such magnitude and importance as to make their reservation to the whole House in committee a matter of expediency, where the provisions of a bill are of such a short or simple character as not to require discussion in detail, or, lastly, where the promoters of a bill are content with the second reading stage as an affirmation of principle and do not wish to carry it further.

Important alterations are made in Standing Order 47, which relates to the constitution and procedure of standing committees.

The number of the standing committees is raised from two to four, and their distinctive names are abolished.

A standing committee may, if it so resolves, sit till 4 p.m., although the House is sitting at the same time.

One of the standing committees includes all the members representing Scottish constituencies, and to this committee go all public bills relating exclusively to Scotland and committed to a standing committee.

Other bills are distributed among the standing committees by Mr. Speaker.

In all but one of the standing committees Government bills have precedence.

The chairman of a standing committee is given powers of closure, and powers of dealing with irrelevance, repetition and dilatory motions.

The amendments of Standing Order 48 include a provision for bills relating exclusively to Wales and Monmouthshire, give power to discharge a member for non-attendance, and exclude the Scottish standing committee from the operation of the order.

By an amendment of Standing Order 49 the maximum number of members of the chairmen's panel is raised from six to eight.

The rule against speaking more than once on the same question is relaxed at the report stage of a bill which has been reported from a standing committee, but only in favour of the member in charge of the bill, or the mover of an amendment or new clause.

The alteration of the time-table and of the provisions as to standing committees exhausted the recommendations of Sir Henry Fowler's committee. The initiative of the changes to be next noticed came from another source.

Complaints had long been made of the unnecessary waste of time involved in taking divisions, but no satisfactory remedy had been found until, in 1906, Mr. Lewis Harcourt, the First Commissioner of Works, devised a plan which has shortened by several minutes the time occupied by a division, and has shortened still more the process of voting for individual members. The new arrangements, which were first brought into operation experimentally on the 7th of June 1906, when the House re-assembled after the Whitsun recess, and were confirmed by amendments of standing orders adopted on the 12th of December 1906, are as follows.

On the conclusion of a debate the Speaker puts the question for the first time, and, when a division is challenged, instead of directing strangers to withdraw, gives the order to "clear the lobby." The tellers' doors giving exit from the Aye and No lobbies are then locked by messengers. Strangers in the seats under the gallery are allowed to remain, being locked in during the progress of the division; but those outside in the members' lobby are required to leave, and the door leading from that lobby to the central hall is locked. The doors leading to the library corridor and to the members' cloak room remain open throughout the division, as well as the large doors leading from the members' lobby to the House, and the small door behind the Speaker's chair leading to the ministers' corridor. After the lapse of two minutes the Speaker puts the question the second time, and, if challenged, names the tellers, who at once proceed to the exit doors, which are then unlocked, and the division commences, the members being counted as they pass. There is another interval of four minutes from the nomination of the tellers, when, by direction of

the Speaker, the doors giving access to the two division lobbies are locked. All members wishing to take part in the division must by this time have entered the division lobbies, but those who do not so desire are permitted to remain or to leave the House at any time throughout the proceedings. In each lobby there are three recording clerks instead of two, and members announce their names to the clerks as they approach the desk where they are stationed. When all the members in the locked lobbies have passed the clerks and tellers, the division is concluded and the numbers are announced at the table.

For the purpose of confirming and regularizing this practice, Standing Orders 28, 29, and 90 (in the numbering of the year 1902), have been repealed, and new standing orders have been substituted for the first two. The new Order 28 omits the requirement to measure time by a sand-glass and adapts to the new practice the directions to be given by the Speaker or Chairman. The new Order 29 repeals two old rules of practice by expressly permitting a member to vote although he did not hear the question put from the chair, and by expressly authorizing members to remain in the House, without voting, whilst a division is in progress.

One other alteration, not in procedure, but in the arrangements for the accommodation of members and of strangers, was made in 1906, and requires mention.

Before 1906 officials who attended the House for the purpose of assisting Ministers in the discussion of bills or of votes in committee of supply found accommodation on the bench underneath the peers' gallery. This arrangement was inconvenient, because a Minister who wished to consult an official had to traverse the whole length of the House. In the discussion on the vote for the Office of Works in May, 1906, Mr. Harcourt intimated that he was considering the possibility of providing seats for officials at the Speaker's end of the House.[1] No objections having been taken to this proposal, the structural alterations required were carried out during the autumn recess. Accommodation was provided for officials on the bench at the Speaker's end, on his right hand, and the seats at the opposite end formerly occupied

[1] See *Parliamentary Debates* (157), 703 (May 17, 1906).

by them were thrown into the House. The effect was to increase the sitting accommodation for members and to place officials in attendance much nearer the Ministers whom they had to advise. But when the House reassembled on the 15th of October objection was taken to this change as an unauthorised interference with the rights of members: their displeasure was signified by a member "espying strangers," and a division was taken on the question "That strangers be ordered to withdraw." These tactics were repeated more than once,[1] but were discontinued on a promise being given of full opportunity for discussing the change on its merits. The opportunity was given on the 22nd of November,[2] and after full discussion the House expressed its approval of the new arrangements.

Sir Henry Fowler's committee on procedure held no sittings after the presentation of their second report. Their powers terminated with the session of 1906, and they were not reappointed in the next session. The somewhat extensive programme which had been sketched out for them[3] shared the fate of other programmes of reform, and a great part of it had to stand over for a more convenient season. Among the matters left undiscussed were the questions of appointing a business committee, of imposing a time limit on speeches, of holding autumn or winter sittings, of carrying over bills from one session to another, and of dealing with the abuse of blocking motions, besides sundry minor amendments of procedure which had been proposed but not adopted in 1902, or had been suggested by subsequent experience.

The proposal to establish a business committee having power to limit and allocate the time for debates appears to be growing in favour, but has not yet been made the subject of a specific proposal.

One of the other matters left over has, however, since been made the subject of reference to a special committee.

[1] October 23 and 24, November 15.

[2] *Parliamentary Debates* (165), 1085.

[3] For some of the items in this programme see an article by the present writer on "The Reform of Parliamentary Procedure" which appeared in the *Contemporary Review* for November, 1906. Some portions of that article have been reproduced in this chapter.

Shortly before Easter 1907, the discussion of a motion on the extension of the parliamentary suffrage to women was successfully blocked by the presentation of a bill on the same subject. The incident directed attention to the abuse of the "rule against anticipation" by means of "blocking motions," and on the 27th of March 1907 the House, at the instance of Mr. Bowles, passed a resolution "That to put a motion on the order paper of this House, or to introduce a bill so as to prevent discussion in this House of motions for which precedence has been obtained in the ballot, or of definite matters of urgent public importance, is hurtful to the usefulness of this House and an infringement of the rights of its members."[1]

In the following June the Prime Minister, on behalf of the Government, gave notice of a resolution affirming the expediency of restricting the power of the House of Lords to alter or reject bills passed by the House of Commons. Thereupon Lord Robert Cecil, in order to demonstrate the absurdity of the rule against anticipation, placed upon the notice paper a notice of his intention to present, and subsequently presented, a bill purporting to relate to the same subject. This notice, as the Speaker reluctantly admitted, would, unless removed from the notice paper, have effectively blocked the discussion of the Government resolution which had been fixed for the following Monday.[2] The success of this ingenious manœuvre brought matters to a head. The blocking bill was withdrawn, but the Government promised to move for the appointment of a select committee to consider and report on the procedure of the House in relation to anticipatory motions. A committee was accordingly appointed on the 3rd of July, and the Clerk of the House laid before it a memorandum in which he traced the history and development of the rule against anticipations, and made some suggestions for amending the standing orders in such a way as to meet the difficulties which had arisen.[3]

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[1] *Parliamentary Debates* (171), 1883–1891.

[2] *Parliamentary Debates* (176), 631–2 (June 20th, 1907).

[3] Report of select committee on procedure (anticipatory motions) 1907 (No. 264), and Evidence, Qq. 1–20, 81, 97, 108 *sq.*, and Appendix.

The so-called "rule against anticipation" has never been embodied in any of the standing orders of the House, but is part of the common law or usage of the House. There is some obscurity about its origin and about the precise date of its first formulation. The earliest edition of May's "Parliamentary Practice" in which there is any express reference to it appears to be that of 1871, but it is evident from Mr. Speaker Denison's rulings that the rule had been recognised and acted upon for many years before that date. After that date the application of the rule was developed and formulated by a large number of successive rulings from the chair. When the standing orders were amended in 1888 restrictions were placed on the power to raise a general debate on a motion for adjournment, and a resolution was passed, authorising, under conditions, motions for adjournment "for the purpose of discussing a definite matter of urgent public importance." The resolution was converted into a standing order, and is now represented, in a modified form, by Standing Order 10. Almost immediately after the passing of this resolution it was discovered that the power to raise a discussion on a particular subject by means of a motion for adjournment might be defeated by placing on the order book a notice of motion on the same subject for a later day, for, as Mr. Speaker Brand remarked, it was an established and fundamental rule of debate that a member was debarred from discussing, on a motion for adjournment, a motion which stood on the order book of the House.[1] It soon became a common practice to put down "blocking notices" for this purpose. Perhaps the practice was never more severely strained than in the session of 1900, when a member, at the beginning of the session, put down a notice of motion in general terms with reference to the conduct of the war in South Africa, and then sailed for Africa to take part in the war without fixing any day for his motion. It was held that the mere retention of this notice on the order book prevented discussion of the terms of peace with the Boers on the motion for adjournment for the Easter recess.[2]

[1] See the debate of the 24th of November 1882. (*Hansard* (275), 26.)

[2] See the debate of the 6th of April 1900. (*Parliamentary Debates* (81), 1414–1427.)

There was a general agreement that a rule, reasonable in its principle, had been unduly stiffened in its application, especially when notices of motions never expected, and often never intended, to be reached were allowed to block important discussions. On the other hand it was felt that the power of moving the adjournment under Standing Order 10 was liable to serious abuse by raising discussions in an inconvenient mode and at an inconvenient time. It was the abuse of this power that was in great measure responsible for, and had been treated as a justification for, the abuse of the anticipation rule. And it was the difficulty of stopping one abuse without enlarging possibilities for the other that postponed for so many years any serious attempt to deal with an admitted flaw in the procedure of the House.

The suggestions made in the memorandum laid before the committee of 1907 were two. The first was that the temptation to use the power of moving the adjournment of the House for the purpose of encroaching on the time appropriated to other business, and particularly Government business, might be checked by providing that when such business was interrupted by a motion for adjournment it might be continued after 11 p.m. though opposed. This would check abuse of the power given by Standing Order 10. The second was that the rule against anticipation might be either negatived altogether by a new standing order, or, preferably, qualified by a direction that in determining whether the discussion of a matter is out of order on the ground of anticipation regard shall be had to the probability of the matter anticipated being brought before the House within a reasonable time. This would maintain the principle of the rule against anticipation, whilst giving the Chair greater freedom in its application.

The report of the select committee proceeded on the lines of the memorandum submitted to them and recommended :

(1) That Standing Order 10 be amended by adding at the end "When a motion so stands over, the proceedings under discussion at a quarter-past eight may be resumed and proceeded with, though opposed, after the interruption of business.

(2) That a new standing order be adopted to the following effect, "In determining whether a discussion is out of order on the ground

of anticipation, regard shall be had by Mr. Speaker to the probability of the matter anticipated being brought before the House within a reasonable time."[1]

Another important matter dealt with in the preceding pages of this work has recently been reported on by a select committee.[2]

The select committee appointed on the 26th of March 1907 to inquire as to the cost and method of reporting and publishing the debates and proceedings in parliament has presented a report[3] which condemns the system of contracting for the reports of parliamentary debates and recommends that the House of Commons should set up a reporting staff of its own. The existing contract for these reports terminates at the end of the present year (1907), but it would be difficult to make any serious change before the House of Commons has had an opportunity of expressing an opinion on the recommendations of the committee.

Meanwhile the House of Commons has passed a momentous resolution, the effects of which it is impossible at this moment to forecast, but which may for the present divert its attention from reforms in its own procedure to the more difficult constitutional question of reforming the relations between the two Houses of Parliament.

On the 26th of June 1907 the House, on the motion of the Prime Minister, resolved by a majority of 285 (432 to 147) "That, in order to give effect to the will of the people as expressed by their elected representatives, it is necessary that the power of the other House to alter or reject bills passed by this House, should be so restricted by law as to secure that within the limits of a single parliament the final decision of the Commons shall prevail."[4]

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[1] Report from the select committee on procedure (anticipatory motions), 1907 (No. 264).

[2] Book II., Part ii., Chap. ii.

[3] Report from the select committee on parliamentary debates, 1907 (No. 239).

[4] See the debates of June 24, 25 and 26, 1907. (*Parliamentary Debates* (176), 909–1011, 1157–1254, 1409–1423.)

APPENDIX

I

Standing Orders relative to Public Business[1]

Sittings of the House.

1.—(1) Unless the house otherwise order, the house shall meet every Monday, Tuesday, Wednesday, and Thursday at *two*[2] of the clock *for an afternoon sitting, and at nine of the clock for an evening sitting.*

(2) At *one*[3] of the clock *at the evening sitting*, the speaker shall adjourn the house without question put, unless a bill originating in committee of ways and means, or unless proceedings made in pursuance of any act of parliament or standing order, or otherwise exempted as hereinafter provided from the operation of this standing order, be then under consideration.

(3) At *half-past seven*[4] of the clock *and at midnight* on Mondays, Tuesdays, Wednesdays and Thursdays, except as aforesaid, and at *half-past* five of the clock on Fridays, the proceedings on any business then under consideration shall be interrupted; and, if the house be in committee, the chairman shall leave the chair, and make his report to the house; and if a motion has been proposed for the adjournment of the house, or of the debate, or in committee that the chairman do report progress, or do leave the chair, every such dilatory motion shall lapse without question put.

(4) Provided always, that on the interruption of business the closure may be moved; and if moved, or if proceedings under the closure rule be then in progress, the speaker or chairman shall not leave the chair, until the questions consequent thereon and on any further motion, as provided in the rule "closure of debate," have been decided.

(5) After the business under consideration at *twelve*[5] and *half-past* five, respectively, has been disposed of, no opposed business shall be taken; *and after the business under consideration at half-past seven of the clock has been disposed of no other business shall be taken.*

(6) All business appointed for any sitting, and not disposed of before the termination of the sitting, shall stand over until the next sitting, or until such other sitting on any day on which the house ordinarily sits as the member in charge of the business may appoint.

(7) A motion may be made by a minister of the crown at the commencement of public business, to be decided without amendment or debate, to the following effect: "That the proceedings on any specified business, if under discussion at *twelve*[6] this night, be not interrupted under the standing order 'sittings of the house,'" or to the following effect: "That

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[1] The standing orders are printed here in the form which they possessed in 1903, that in which they stood when the German text of this work was printed. All words since repealed are printed in italics, and footnotes are given showing the words (if any) by which they have been replaced, and also any additions.

[2] a quarter to three

[3] half-past eleven

[4] eleven

[5] eleven

[6] eleven

the proceedings on any specified business, if under discussion *on the interruption of business at this afternoon's sitting*,[1] be resumed and proceeded with, though opposed, after the interruption of business *at this evening's sitting*."

(8) Provided always, that after any business exempted from the operation of this order is disposed of, the remaining business of the sitting shall be dealt with according to the provisions applicable to business taken after *twelve*[2] o'clock.

(9) Provided also, that the chairman of ways and means do take the chair as deputy speaker, when requested so to do by Mr. Speaker, without any formal communication to the house; and that Mr. Speaker shall nominate, at the commencement of every session, a panel of not more than five members to act as temporary chairmen of committees, when requested by the chairman of ways and means.

2. The house shall meet every Friday, at twelve o'clock at noon, for private business, petitions, orders of the day, and notices of motions, and shall continue to sit until *six*[3] o'clock, unless previously adjourned.

3. When such business has been disposed of, or at *six*[4] o'clock precisely, notwithstanding there may be business under discussion, Mr. Speaker shall adjourn the house, without putting any question.

Arrangement of Public Business.

4. Unless the house otherwise direct—

(*a*) Government business shall have precedence at every sitting except *the evening sittings*[5] on Tuesday and Wednesday and the sitting on Friday;

(*b*) *At the evening sittings of*[6] Tuesday and Wednesday notices of motion and public bills, other than government bills, shall have precedence of government business;

(*c*) After Easter government business shall have precedence *at the evening sittings*[7] of Tuesday;

(*d*) After Whitsuntide, until Michaelmas, government business shall have precedence at all *evening* sittings, *and at all Friday sittings* except the sittings on the third and fourth Fridays after Whit Sunday;

(*e*) *At the evening sittings at which*[8] government business has not precedence notices of motion shall have precedence of the orders of the day;

(*f*) *At all afternoon sittings*[9] the house will first proceed with petitions, motions for unopposed returns, and leave of absence to members, giving notices of motions, and unopposed private business.

5. On days on which government business has priority the government may arrange such government business, whether orders of the day or notices of motions, in such order as they may think fit.

6. After Whitsuntide, public bills, other than government bills, shall be arranged on the order book so as to give priority to the bills most advanced, and lords' amendments to public bills appointed to be con-

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[1] when the business is postponed
[2] eleven
[3] half-past five
[4] half-past five
[5] after a quarter-past eight
[6] After a quarter-past eight on
[7] during the whole
[8] After a quarter-past eight when
[9] At the sittings on Monday, Tuesday, Wednesday and Thursday

sidered shall be placed first, to be followed by third readings, considerations of report, bills in progress in committee, bills appointed for committee, and second readings.

7. No notice shall be given beyond the period which shall include the four days next following on which notices are entitled to precedence; due allowance being made for any intervening adjournment of the house, and the period being in that case so far extended as to include four notice days falling during the sitting of the house.

Private Business.

8.—(1) No opposed private business shall be set down for the sittings on Friday, or for *the evening sittings*[1] on Wednesday between Easter and Whitsuntide.

(2) All private business which is set down for Monday, Tuesday, Wednesday, or Thursday, and is not disposed of by *fifteen minutes after two*[2] of the clock shall, without question put, be postponed until such time as the chairman of ways and means may determine.

(3) Provided that such private business shall always be taken at *the beginning of an evening sitting after*[3] any motion for the adjournment of the house standing over *from an afternoon sitting* has been disposed of, and that such postponed business shall be distributed as near as may be proportionately between the sittings on which government business has precedence and the other sittings.

(4) *At an evening sitting at which government business has not precedence*, no opposed private business other than that then under consideration shall be taken after *a quarter-past ten*[4] of the clock.

(5) Unopposed private business shall have precedence of opposed private business.

Questions.

9.—(1) Notices of questions shall be given by members in writing to the clerk at the table, without reading them *vivâ voce* in the house, unless the consent of the speaker to any particular question has been previously obtained.

(2) *On days when there are two sittings of the house*, questions shall be taken *at a quarter-past two*[5] of the clock.

(3) No questions shall be taken after *five minutes before three*[6] of the clock, except questions which have not been answered in consequence of the absence of the minister to whom they are addressed, and questions which have not appeared on the paper, but which are of an urgent character, and relate either to matters of public importance or to the arrangement of business.

(4) Any member who desires an oral answer to his question may distinguish it by an asterisk, but notice of any such question must appear at latest on the notice paper circulated on the day before that on which an answer is desired.

[1] a quarter-past eight
[2] three
[3] a quarter-past eight on Monday, Tuesday, Wednesday or Thursday or as soon thereafter as
[4] half-past nine
[5] On Monday, Tuesday, Wednesday and Thursday, after private business has been disposed of, and not later than three
[6] a quarter before four

(5) If any member does not distinguish his question by an asterisk, or if he or any other member deputed by him is not present to ask it, or if it is not reached by *five minutes before three*[1] of the clock, the minister to whom it is addressed shall cause an answer to be printed and circulated with the votes, unless the member has signified his desire to postpone the question.

Adjournment on Matter of Public Importance.

10. No motion for the adjournment of the house shall be made until all the questions asked at the commencement of business *at the afternoon sitting*[2] have been disposed of, and no such motion shall be made before the orders of the day, or notices of motion have been entered upon, except by leave of the house, unless a member rising in his place *at an afternoon sitting* shall propose to move the adjournment for the purpose of discussing a definite matter of urgent public importance, and not less than forty members shall thereupon rise in their places to support the motion, or unless, if fewer than forty members and not less than ten shall thereupon rise in their places, the house shall, on a division, upon question put forthwith, determine whether such motion shall be made. If the motion is so supported, or the house so determines that it shall be made, it shall stand over until *the evening sitting of*[3] the same day.

Bringing in Bills and Nominating Select Committees at Commencement of Public Business.

11. On Tuesdays and Wednesdays, and, if set down by the government, on Mondays and Thursdays, motions for leave to bring in bills, and for the nomination of select committees, may be set down for consideration at the commencement of public business. If such motions be opposed, Mr. Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes any such motion respectively, may, without further debate, put the question thereon, or the question, that the debate be now adjourned.

Orders of the Day.

12. At the time fixed for the commencement of public business, on days on which orders have precedence of notices of motions, and after the notices of motions have been disposed of, on all other days, Mr. Speaker shall direct the clerk at the table to read the orders of the day without any question being put.

13. The orders of the day shall be disposed of in the order in which they stand upon the paper; the right being reserved to His Majesty's ministers of placing government orders or motions at the head of the list, in the rotation in which they are to be taken on the days on which government bills have precedence.

Supply and Ways and Means.

14. This house will, in future, appoint the committees of supply and ways and means at the commencement of every session, so soon as an address has been agreed to, in answer to His Majesty's speech.

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[1] a quarter before four

[2] on Monday, Tuesday, Wednesday or Thursday

[3] a quarter-past eight

15.—(1) As soon as the committee of supply has been appointed and estimates have been presented, the business of supply, shall, until disposed of, be the first order of the day on Thursday, unless the house otherwise order on the motion of a minister of the crown, moved at the commencement of public business, to be decided without amendment or debate.

(2) Not more than twenty days, being days before the 5th of August, shall be allotted for the consideration of the annual estimates for the army, navy, and civil services, including votes on account. The days allotted shall not include any day on which the question has to be put that the speaker do leave the chair, or any day on which the business of supply does not stand as first order.

(3) Provided that the days occupied by the consideration of estimates supplementary to those of a previous session or of any vote of credit, or of votes for supplementary or additional estimates presented by the government for war expenditure, or for any new service not included in the ordinary estimates for the year, shall not be included in the computation of the twenty days aforesaid.

(4) Provided also that on motion made after notice, to be decided without amendment or debate, additional time, not exceeding three days, may be allotted for the purposes aforesaid, either before or after the 5th of August.

(5) On a day so allotted, no business other than the business of supply shall be taken before *midnight*,[1] and no business in committee or proceedings on report of supply shall be taken after *midnight*,[2] whether a general order *for the suspension of the twelve o'clock rule*[3] is in force or not, unless the house otherwise order on the motion of a minister of the crown, moved at the commencement of public business, to be decided without amendment or debate.

(6) Of the days so allotted, not more than one day in committee shall be allotted to any vote on account, and not more than one sitting to the report of that vote. At *midnight*[4] on the close of the day on which the committee on that vote is taken, and at the close of the sitting on which the report of that vote is taken, the chairman of committees or the speaker, as the case may be, shall forthwith put every question necessary to dispose of the vote or the report.

(7) At ten of the clock on the last day but one of the days so allotted the chairman shall forthwith put every question necessary to dispose of the vote then under consideration, and shall then forthwith put the question with respect to each class of the civil service estimates that the total amount of the votes outstanding in that class be granted for the services defined in the class, and shall in like manner put severally the questions that the total amounts of the votes outstanding in the estimates for the navy, the army, and the revenue departments be granted for the services defined in those estimates.

(8) At ten of the clock on the last, not being earlier than the twentieth, of the allotted days, the speaker shall forthwith put every question necessary to dispose of the report of the resolution then under consideration, and shall then forthwith put, with respect to each class of the civil service estimates,

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[1] eleven [2] eleven

[3] exempting business from interruption under the standing order (sittings of the house)

[4] eleven

the question, that the house does agree with the committee in all the outstanding resolutions reported in respect of that class, and shall then put a like question with respect to all the resolutions outstanding in the estimates for the navy, the army, the revenue departments, and other outstanding resolutions severally.

(9) On the days appointed for concluding the business of supply, the consideration of that business shall not be anticipated by a motion of adjournment, and no dilatory motion shall be moved on proceedings for that business and the business shall not be interrupted under any standing order.

(10) Any additional estimate for any new matter not included in the original estimates for the year, shall be submitted for consideration in the committee of supply on some day not later than two days before the committee is closed.

(11) For the purposes of this order two Fridays shall be deemed equivalent to a single *day of two sittings*.[1]

16. The committees of supply and ways and means shall be fixed for Monday, Wednesday, and Thursday, and may also be appointed for any other day on which the house shall meet for despatch of business.

17. Whenever the committee of supply stands as an order of the day, Mr. Speaker shall leave the chair without putting any question, unless on first going into supply on the army, navy, or civil service estimates respectively, or on any vote of credit, an amendment be moved, or question raised, relating to the estimates proposed to be taken in supply.

Order in the House.

18.—(1) Whenever any member shall have been named by the speaker, or by the chairman of a committee of the whole house, immediately after the commission of the offence of disregarding the authority of the chair, or of abusing the rules of the house by persistently and wilfully obstructing the business of the house, or otherwise, then, if the offence has been committed by such member in the house, the speaker shall forthwith put the question, on a motion being made, no amendment, adjournment, or debate being allowed, "That such member be suspended from the service of the house;" and, if the offence has been committed in a committee of the whole house, the chairman shall forthwith suspend the proceedings of the committee and report the circumstance to the house; and the speaker shall on a motion being made thereupon put the same question, without amendment, adjournment, or debate, as if the offence had been committed in the house itself.

(2) If any member be suspended under this order, his suspension on the first occasion SHALL CONTINUE FOR ONE WEEK, ON THE SECOND OCCASION FOR A FORTNIGHT, AND ON THE THIRD, OR ANY SUBSEQUENT OCCASION, FOR A MONTH.

(3) Provided always, that suspension from the service of the house shall not exempt the member so suspended from serving on any committee for the consideration of a private bill to which he may have been appointed before his suspension.

(4) Provided also, that not more than one member shall be named at the same time, unless several members, present together, have jointly disregarded the authority of the chair.

[1] sitting on any other day.

(5) Provided also, that if any member, or members acting jointly, who have been suspended under this order from the service of the house, shall refuse to obey the direction of the speaker, when severally summoned under the speaker's orders by the serjeant-at-arms to obey such direction, the speaker shall call the attention of the house to the fact that recourse to force is necessary in order to compel obedience to his direction, and the member or members named by him as having refused to obey his direction shall thereupon and without further question put, be suspended from the service of the house during the remainder of the session.

(6) Provided always, that nothing in this resolution shall be taken to deprive the house of the power of proceeding against any member according to ancient usages.

NOTE.—The words printed in small capitals were struck out on the 13th February 1902, but the proceedings on the amendment of the standing order were not resumed after the 17th February 1902.

19. Mr. Speaker or the chairman, after having called the attention of the house, or of the committee, to the conduct of a member, who persists in irrelevance, or tedious repetition either of his own arguments, or of the arguments used by other members in debate, may direct him to discontinue his speech.

20.—(1) Mr. Speaker or the chairman shall order members whose conduct is grossly disorderly to withdraw immediately from the house during the remainder of that day's sitting; and the serjeant-at-arms shall act on such orders as he may receive from the chair in pursuance of this resolution. But if, on any occasion, Mr. Speaker or the chairman deems that his powers under this standing order are inadequate, he may name such member or members in pursuance of the standing order "Order in debate," or he may call upon the house to adjudge upon the conduct of such member or members.

(2) Provided always, that members who are ordered to withdraw under this standing order, or who are suspended from the service of the house under the standing order "Order in debate," shall forthwith withdraw from the precincts of the house, subject, however, in the case of such suspended members, to the proviso in that standing order regarding their service on private bill committees.

21. In the case of grave disorder arising in the house the speaker may, if he thinks it necessary to do so, adjourn the house without question put, or suspend any sitting for a time to be named by him.

Adjournment and Counting Out.

22. When a motion is made for the adjournment of a debate, or of the house during any debate, or that the chairman of a committee do report progress, or do leave the chair, the debate thereupon shall be confined to the matter of such motion; and no member, having moved or seconded any such motion, shall be entitled to move, or second, any similar motion during the same debate.

23. If Mr. Speaker, or the chairman of a committee of the whole house, shall be of opinion that a motion for the adjournment of a debate, or of the house, during any debate, or that the chairman do report progress, or do leave the chair, is an abuse of the rules of the house, he

may forthwith put the question thereupon from the chair, or he may decline to propose the question thereupon to the house.

24. While the committees of supply and ways and means are open, the house, when it meets on Friday, shall, at its rising, stand adjourned until the following Monday, without any question being put, unless the house shall otherwise resolve.

25. *At an evening sitting* the house shall not be counted *before ten*[1] o'clock, but if on a division taken on any business *at an evening sitting before ten*[2] o'clock it appears that forty members are not present, the business shall stand over until the next sitting of the house, and the next business shall be taken.

Closure of Debate.

26.—(1) After a question has been proposed a member rising in his place may claim to move, "That the question be now put," and, unless it shall appear to the chair that such motion is an abuse of the rules of the house, or an infringement of the rights of the minority, the question, "That the question be now put," shall be put forthwith, and decided without amendment or debate.

(2) When the motion "That the question be now put" has been carried and the question consequent thereon has been decided, any further motion may be made (the assent of the chair, as aforesaid, not having been withheld) which may be requisite to bring to a decision any question already proposed from the chair; and also, if a clause be then under consideration, a motion may be made (the assent of the chair, as aforesaid, not having been withheld) that the question, that certain words of the clause defined in the motion stand part of the clause, or that the clause stand part of, or be added to the bill, be now put. Such motions shall be put forthwith, and decided without amendment or debate.

(3) Provided always, that this rule shall be put in force only when the speaker or the chairman of ways and means is in the chair.

27. Questions for the closure of debate under standing order "Closure of debate" shall be decided in the affirmative, if, when a division be taken, it appears by the numbers declared from the chair, that not less than one hundred members voted in the majority in support of the motion.

Divisions.

28. *So soon as the voices have been taken, the clerk shall turn a two-minute sand-glass, to be kept on the table for that purpose, and the doors shall not be closed until after the lapse of two minutes as indicated by such sand-glass.*[3]

29. *The doors shall be closed so soon after the lapse of two minutes as the speaker or the chairman of the committee of the whole house shall think proper to direct.*[4]

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[1] between a quarter-past eight and a quarter-past nine

[2] between a quarter-past eight and a quarter-past nine

[3] (1) If the opinion of the speaker or chairman as to the decision of a question is challenged he shall direct that the lobby be cleared.

(2) After the lapse of two minutes from this direction he shall put the question again, and if his opinion is again challenged he shall nominate tellers.

(3) After the lapse of six minutes from this direction he shall direct that the doors giving access to the division lobbies be locked.

[4] (1) A member may vote in a division although he did not hear the question put.

(2) A member is not obliged to vote.

30. Mr. Speaker or the chairman, may, after the lapse of two minutes as indicated by the sand-glass, if in his opinion the division is frivolously or vexatiously claimed, take the vote of the house, or committee, by calling upon the members who support, and who challenge his decision, successively to rise in their places; and he shall thereupon, as he thinks fit, either declare the determination of the house or committee, or name tellers for a division. And, in case there is no division, the speaker or chairman shall declare to the house or the committee the number of the minority who have challenged his decision, and their names shall be thereupon taken down in the house, and printed with the lists of divisions.

Public Bills.

31.—(1) When any bill shall be presented by a member in pursuance of an order of this house, or shall be brought from the Lords, the questions "That this bill be now read a first time," and "That this bill be printed," shall be decided without amendment or debate.

(2) A member may, if he thinks fit, after notice, present a bill without an order of the house for its introduction; and when a bill is so presented the title of the bill shall be read by the clerk at the table, and the bill shall then be deemed to have been read a first time, and shall be printed.

32. When a bill or other matter (except supply or ways and means) has been partly considered in committee, and the chairman has been directed to report progress, and ask leave to sit again, and the house shall have ordered that the committee shall sit again on a particular day, the speaker shall, when the order for the committee has been read, forthwith leave the chair without putting any question, and the house shall thereupon resolve itself into such committee.

33. Bills which may be fixed for consideration in committee on the same day, whether in progress or otherwise, may be referred together to a committee of the whole house, which may consider on the same day all the bills so referred to it, without the chairman leaving the chair on each separate bill; provided that, with respect to any bill not in progress, if any member shall object to its consideration in committee, together with other bills, the order of the day for the committee on such bill shall be postponed.

34. It shall be an instruction to all committees of the whole house to which bills may be committed, that they have power to make such amendments therein as they shall think fit, provided they be relevant to the subject-matter of the bill; but that if any such amendments shall not be within the title of the bill, they do amend the title accordingly, and do report the same specially to the house.

35. In committee on a bill, the preamble shall stand postponed until after the consideration of the clauses, without question put.

36. The questions for reading a bill a first and second time in a committee of the whole house shall be discontinued.

37. In going through a bill no questions shall be put for the filling up words already printed in italics, and commonly called blanks, unless exception be taken thereto; and if no alterations have been made in the words so printed in italics, the bill shall be reported without amendments, unless other amendments have been made thereto.

38. On a clause being offered in the committee on the bill, or on the consideration of report of a bill, Mr. Speaker or the chairman shall desire the member to bring up the same, whereupon it shall be read a first time without question put, but no clause shall be offered on consideration of report without notice.

39. At the close of the proceedings of a committee of the whole house on a bill, the chairman shall report the bill forthwith to the house, and when amendments shall have been made thereto, the same shall be received, without debate, and a time appointed for taking the same into consideration.

40. When the order of the day for the consideration of a bill, as amended in the committee of the whole house, has been read, the house shall proceed to consider the same without question put, unless the member in charge thereof shall desire to postpone its consideration, or a motion shall be made to re-commit the bill.

41. Upon the report stage of any bill no amendment may be proposed which could not have been proposed in committee without an instruction from the house.

42. No amendments, not being merely verbal, shall be made to any bill on the third reading.

43. Lords' amendments to public bills shall be appointed to be considered on a future day, unless the house shall order them to be considered forthwith.

44. With respect to any bill brought to this house from the House of Lords, or returned by the House of Lords to this house, with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, this house will not insist on its ancient and undoubted privileges in the following cases:—

1. When the object of such pecuniary penalty or forfeiture is to secure the execution of the act, or the punishment or prevention of offences.

2. Where such fees are imposed in respect of benefit taken or service rendered under the act, and in order to the execution of the act, and are not made payable into the treasury or exchequer, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus.

3. When such bill shall be a private bill for a local or personal act.

45. The precise duration of every temporary law shall be expressed in a distinct clause at the end of the bill.

Standing Committees.

46. *The resolutions of the house of the 1st December 1882 relating to the constitution and proceedings of standing committees for the consideration of bills relating to law, and courts of justice, and legal procedure, and to trade, shipping, and manufactures, shall be revived, and trade shall include agriculture and fishing.*[1]

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[1] 46.—(1) When a bill has been read a second time it shall stand committed to one of the standing committees, unless the house, on motion to be decided without amendment or debate, otherwise order, and such a motion shall not require notice, must be made immediately after the bill is read a second time, may be made by any member, and may,

47. *Two*[1] standing committees shall be appointed for the consideration of all bills *relating to law and courts of justice and legal procedure, and to trade, shipping and manufactures, which may by order of the house in each case,* be committed to them; and the procedure in such committees shall be the same as in a select committee, unless the house shall otherwise order: provided, that strangers shall be admitted, except when the committee shall order them to withdraw; and the said committees shall not sit, *after a quarter-past two of the clock,* whilst the house is sitting,[2] without the order of the house: provided also, that any notice of amendment to any clause in a bill which may be committed to a standing committee, given by any honourable member in the house, shall stand referred to such committee: provided also, that twenty be the quorum of such standing committees.[3]

48. Each of the said standing committees shall consist of not less than sixty nor more than eighty members, to be nominated by the committee of selection, who shall have regard to the classes of bills committed to such committees, to the composition of the house, and to the qualifications of the members selected; and shall have power to discharge members from time to time,[4] and to appoint others in substitution

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though opposed, be decided after the expiration of the time for opposed business. But this order shall not apply to—

(*a*) bills for imposing taxes or Consolidated Fund or Appropriation bills; or

(*b*) bills for confirming provisional orders.

Provided that the house may, on motion made by the member in charge of a bill, commit the bill to a standing committee in respect of some of its provisions, and to a committee of the whole house in respect of other provisions, and that if such a motion is opposed the speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who makes and the member who opposes the motion, shall without further debate put the question thereon.

(2) Where a bill has been committed to a standing committee, or has been so committed in respect of any provision, then, at the report stage of the bill or provision, the rule against speaking more than once shall not apply to the member in charge of the bill or to the mover of any amendment or new clause in respect of that amendment or clause.

[1] Four

[2] except in pursuance of a resolution of the committee, moved by the member in charge of the bill before the committee, and decided without amendment or debate, and shall not sit after four p.m.

[3] One of the standing committees shall be appointed for the consideration of all public bills relating exclusively to Scotland and committed to a standing committee, and shall consist of all the members representing Scottish constituencies together with not more than fifteen other members to be nominated in respect of any bill by the committee of selection, who shall have regard in such nomination to the approximation of the balance of parties in the committee to that in the whole house, and shall have power from time to time to discharge, for non-attendance or at their own request, the members so nominated by them, and to appoint others in substitution for those discharged.

Subject as aforesaid the bills committed to a standing committee shall be distributed among the committees by Mr. Speaker.

In all but one of the standing committees Government bills shall have precedence.

Standing Order 19 (as to irrelevance and repetition) and Standing Orders 26 and 27 (as to closure) shall apply to standing committees, with the substitution in Standing Order 26 of the chairman of the committee for the chairman of ways and means, and in Standing Order 27 of 20 for 100 as the number necessary to render the majority effective for the closure, and the chairman of a standing committee shall have the like powers as the chairman of a committee of the whole house has under Standing Order 23 (as to dilatory motions).

[4] for non-attendance or at their own request

for those discharged.[1] The committee of selection shall also have power to add not more than fifteen members to a standing committee in respect of any bill referred to it, to serve on the committee during the consideration of such bill.[2]

49. The committee of selection shall nominate a chairmen's panel to consist of not less than four nor more than *six*[3] members, of whom three shall be a quorum; and the chairmen's panel shall appoint from among themselves the chairman of each standing committee, and may change the chairman so appointed from time to time.

50. All bills which shall have been committed to one of the said standing committees shall, when reported to the house, be proceeded with, as if they had been reported from a committee of the whole house: provided only, that all bills reported from a standing committee, whether amended or not, shall be considered on report by the house without question put, unless the member in charge thereof desire to postpone its consideration or a motion be made to re-commit the bill.

Committees of the whole House.

51. Whenever an order of the day is read for the house to resolve itself into committee (not being a committee to consider a message from the crown, or the committee of supply, or the committee on the East India revenue accounts), Mr. Speaker shall leave the chair without putting any question, and the house shall thereupon resolve itself into such committee, unless notice of an instruction thereto has been given, when such instruction shall be first disposed of.

52. When the chairman of a committee has been ordered to make a report to the house, he shall leave the chair without question put.

53. Every report from a committee of the whole house shall be brought up, without any question being put.

Select Committees.

54. All committees shall have leave to sit, except while the house is at prayers, during the sitting, and notwithstanding any adjournment of the house.

55. No select committee shall, without leave of the house, consist of more than fifteen members; such leave shall not be moved for without notice; and in the case of members proposed to be added or substituted, after the first appointment of the committee, the notice shall include the names of the members proposed to be added or substituted.

56. Every member intending to move for the appointment of a select committee shall endeavour to ascertain previously whether each member proposed to be named by him on such committee will give his attendance thereupon.

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[1] Provided that, for the consideration of all public bills relating exclusively to Wales and Monmouthshire, the committee shall be so constituted as to comprise all members sitting for constituencies in Wales and Monmouthshire.

[2] Provided that this order shall not apply to the standing committee on Scottish bills.

[3] eight

57. Every member intending to move for the appointment of a select committee, shall, one day next before the nomination of such committee, place on the notices the names of the members intended to be proposed by him to be members of such committee.

58. Lists shall be affixed in some conspicuous place in the committee office and in the lobby of the house of all members serving on each select committee.

59. To every question asked of a witness under examination in the proceedings of any select committee there shall be prefixed in the minutes of the evidence the name of the member asking such question.

60. The names of the members present each day on the sitting of any select committee shall be entered on the minutes of evidence, or on the minutes of the proceedings of the committee (as the case may be), and reported to the house on the report of such committee.

61. In the event of any division taking place in any select committee, the question proposed, the name of the proposer, and the respective votes thereupon of each member present, shall be entered on the minutes of evidence, or on the minutes of the proceedings of the committee (as the case may be), and reported to the house on the report of such committee.

62. If, at any time during the sitting of a select committee of this house, the quorum of members fixed by the house shall not be present, the clerk of the committee shall call the attention of the chairman to the fact, who shall thereupon suspend the proceedings of the committee until a quorum be present, or adjourn the committee to some future day.

63. Every select committee having power to send for persons, papers, and records, shall have leave to report their opinion and observations, together with the minutes of evidence taken before them, to the house, and also to make a special report of any matters which they may think fit to bring to the notice of the house.

64. The serjeant-at-arms attending this house shall, from time to time, when the house is going to prayers, give notice thereof to all committees; and all proceedings of committees, after such notice, are declared to be null and void, unless such committees be otherwise empowered to sit after prayers.

Address in answer to King's Speech.

65. The stages of committee and report on the address to His Majesty to convey the thanks of the house for His Majesty's most gracious speech to both houses of parliament, at the opening of the session, shall be discontinued.

Public Money.

66. This house will receive no petition for any sum relating to public service, or proceed upon any motion for a grant or charge upon the public revenue, whether payable out of the consolidated fund or out of money to be provided by parliament, unless recommended from the crown.

67. This house will not proceed upon any petition, motion, or bill, for granting any money, or for releasing or compounding any sum of money owing to the crown, but in a committee of the whole house.

68. This house will not receive any petition for compounding any sum of money owing to the crown, upon any branch of the revenue, without a certificate from the proper officer or officers annexed to the said petition, stating the debt, what prosecutions have been made for the recovery of such debt, and setting forth how much the petitioner and his security are able to satisfy thereof.

69. This house will not proceed upon any motion for an address to the crown, praying that any money may be issued, or that any expense may be incurred, but in a committee of the whole house.

70. This house will not receive any petition, or proceed upon any motion for a charge upon the revenues of India, but what is recommended by the crown.

71. If any motion be made in the house for any aid, grant, or charge upon the public revenue, whether payable out of the consolidated fund or out of money to be provided by parliament, or for any charge upon the people, the consideration and debate thereof shall not be presently entered upon, but shall be adjourned till such further day as the house shall think fit to appoint, and then it shall be referred to a committee of the whole house before any resolution or vote of the house do pass therein.

Packet and Telegraphic Contracts.

72. In all contracts extending over a period of years, and creating a public charge, actual or prospective, entered into by the government for the conveyance of mails by sea, or for the purpose of telegraphic communications beyond sea, there should be inserted the condition that the contract shall not be binding until it has been approved of by a resolution of the house.

73. Every such contract, when executed, shall forthwith, if parliament be then sitting or, if parliament be not then sitting, within fourteen days after it assembles, be laid upon the table of the house, accompanied by a minute of the lords of the treasury, setting forth the grounds on which they have proceeded in authorising it.

74. In cases where any such contract requires to be confirmed by act of parliament, the bill for that purpose shall not be introduced and dealt with as a private bill, and power to the government to enter into agreements by which obligations at the public charge shall be undertaken, shall not be given in any private act.

Public Accounts.

75. There shall be a standing committee, to be designated "the committee of public accounts," for the examination of the accounts showing the appropriation of the sums granted by parliament to meet the public expenditure, to consist of eleven members, who shall be nominated at the commencement of every session, and of whom five shall be a quorum.

Public Petitions.

76. Every member offering to present a petition to the house, not being a petition for a private bill, or relating to a private bill before the house, shall confine himself to a statement of the parties from whom it

comes, of the number of signatures attached to it, and of the material allegations contained in it, and to the reading of the prayer of such petition.

77. Every such petition not containing matter in breach of the privileges of this house, and which, according to the rules or usual practice of this house, can be received, shall be brought to the table by the direction of the speaker, who shall not allow any debate, or any member to speak upon, or in relation to such petition; but it may be read by the clerk at the table, if required.

78. In the case of such petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such petition may be brought into discussion on the presentation thereof.

79. All other such petitions, after they shall have been ordered to lie on the table, shall be referred to the committee on public petitions, without any question being put; but if any such petition relate to any matter or subject, with respect to which the member presenting it has given notice of a motion, and the said petition has not been ordered to be printed by the committee, such member may, after notice given, move that such petition be printed with the votes.

80. Subject to the above regulations, petitions against any resolution or bill imposing a tax or duty for the current service of the year shall be henceforth received, and the usage under which the house has refused to entertain such petitions shall be discontinued.

Speaker.

81.—(1) Whenever the house shall be informed by the clerk at the table of the unavoidable absence of Mr. Speaker, the chairman of the committee of ways and means shall perform the duties and exercise the authority of speaker in relation to all proceedings of this house, as deputy speaker, until the next meeting of the house, and so on from day to day, on the like information being given to the house, until the house shall otherwise order; provided that if the house shall adjourn for more than twenty-four hours, the deputy speaker shall continue to perform the duties and exercise the authority of speaker for twenty-four hours only after such adjournment.

(2) At the commencement of every parliament or from time to time, as necessity may arise, the house may appoint a deputy chairman, who shall whenever the house is informed by the clerk at the table of the unavoidable absence of the chairman of ways and means, be entitled to exercise all the powers vested in the chairman of ways and means, including his powers as deputy speaker.

Members.

82. No member's name shall be affixed to any seat in the house before the hour of prayers; and the speaker shall give directions to the door-keepers accordingly.

83. Any member having secured a seat at prayers shall be entitled to retain the same until the rising of the house.

84. Members may take and subscribe the oath required by law, at any time during the sitting of the house, before the orders of the day and notices of motions have been entered upon, or after they have been disposed of; but no debate or business shall be interrupted for that purpose.

85. Every person returned as a member of this house, who may claim to be a person for the time being by law permitted to make a solemn affirmation or declaration instead of taking an oath, shall henceforth (notwithstanding so much of the resolution adopted by this house on the 22nd day of June 1880 as relates to affirmation) be permitted, without question, to make and subscribe a solemn affirmation in the form prescribed by the Parliamentary Oaths Act, 1866, as altered by the Promissory Oaths Act, 1868, subject to any liability by statute.

Witnesses.

86. Any oath or affirmation taken or made by any witness before the house, or a committee of the whole house, may be administered by the clerk at the table.

87. Any oath or affirmation taken or made by any witness before a select committee may be administered by the chairman, or by the clerk attending such committee.

Strangers.

88. The serjeant-at-arms attending this house shall, from time to time, take into his custody any stranger whom he may see, or who may be reported to him to be, in any part of the house or gallery appropriated to the members of this house, and also any stranger who, having been admitted into any other part of the house or gallery, shall misconduct himself, or shall not withdraw when strangers are directed to withdraw while the house, or any committee of the whole house, is sitting; and no person so taken into custody shall be discharged out of custody, without the special order of the house.

89. No member of this house shall presume to bring any stranger into any part of the house or gallery appropriated to the members of this house, while the house, or a committee of the whole house, is sitting.

90. *Except when Mr. Speaker or the chairman of a committee of the whole house shall otherwise direct, his order for the withdrawal of strangers during a division shall be understood to apply to strangers occupying seats below the bar and in the front gallery, and shall be enforced by the serjeant-at-arms accordingly.*

91. If at any sitting of the house, or in committee, any member shall take notice that strangers are present, Mr. Speaker, or the chairman (as the case may be), shall forthwith put the question, "That strangers be ordered to withdraw," without permitting any debate or amendment: provided that the speaker, or the chairman, may, whenever he think fit, order the withdrawal of strangers from any part of the house.

Letters.

92. To prevent the intercepting or losing of letters directed to members of this house, the person appointed to bring letters from the general post office to this house, or some other person to be appointed by the postmaster-general, shall for the future, every day during the session of parliament,

Sundays excepted, constantly attend, from ten of the clock in the morning till seven in the afternoon, at the place appointed for the delivery of the said letters, and take care during his stay there, to deliver the same to the several members to whom they shall be directed, or to their known servant or servants, or other persons bringing notes under the hands of the members sending for the same.

93. The said officer shall, upon his going away, lock up such letters as shall remain undelivered; and no letter shall be delivered but within the hours aforesaid.

94. The said orders shall be sent to the postmaster-general at the commencement of each session.

95. When any letter or packet directed to this house shall come to Mr. Speaker he shall open the same; and acquaint the house, at their next sitting, with the contents thereof, if proper to be communicated to this house.

Parliamentary Papers.

96. If, during the existence of a parliament, papers are commanded to be presented to this house by His Majesty at any time, the delivery of such papers to the librarian of the House of Commons shall be deemed to be for all purposes the presentation of them to this house.

II

Sessional Orders[1]

ELECTIONS,—*Ordered*, That all members who are returned for two or more places in any part of the United Kingdom do make their election for which of the places they will serve, within one week after it shall appear that there is no question upon the return for that place; and if anything shall come in question touching the return or election of any member, he is to withdraw during the time the matter is in debate; and that all members returned upon double returns do withdraw till their returns are determined.

Resolved, That no peer of the realm, except such peers of Ireland as shall for the time being be actually elected, and shall not have declined to serve, for any county, city, or borough of Great Britain, hath any right to give his vote in the election of any member to serve in Parliament.

Resolved, That it is a high infringement of the liberties and privileges of the Commons of the United Kingdom for any lord of parliament, or other peer or prelate, not being a peer of Ireland at the time elected, and not having declined to serve for any county, city, or borough of Great Britain, to concern himself in the election of members to serve for the Commons in Parliament, except only any peer of Ireland, at such elections in Great Britain respectively where such peer shall appear as a candidate, or by himself, or by any others, be proposed to be elected; or for any lord lieutenant or governor of any county to avail himself of any authority derived from his commission, to influence the election of any member to serve for the Commons in Parliament.

Resolved, That if it shall appear that any person hath been elected or returned a member of this House, or endeavoured so to be, by bribery, or any other corrupt practices, this House will proceed with the utmost severity against all such persons as shall have been wilfully concerned in such bribery or other corrupt practices.

WITNESSES,—*Resolved*, That if it shall appear that any person hath been tampering with any witness, in respect of his evidence to be given to this House, or any committee thereof, or directly or indirectly hath endeavoured to deter or hinder any person from appearing or giving evidence, the same is declared to be a high crime or misdemeanour; and this House will proceed with the utmost severity against such offender.

Resolved, That if it shall appear that any person hath given false evidence in any case before this House, or any committee thereof, this House will proceed with the utmost severity against such offender.

METROPOLITAN POLICE,—*Ordered*, That the commissioners of the police of the metropolis do take care that, during the session of Parliament, the passages through the streets leading to this House be kept free and open, and that no obstruction be permitted to hinder the passage of members to

[1] As adopted in 1904.

and from this House, and that no disorder be allowed in Westminster Hall, or in the passages leading to this House, during the sitting of Parliament, and that there be no annoyance therein or thereabouts; and that the Serjeant-at-arms attending this House do communicate this order to the commissioners aforesaid.

Votes and Proceedings,—*Ordered*, That the votes and proceedings of this House be printed, being first perused by Mr. Speaker; and that he do appoint the printing thereof; and that no person but such as he shall appoint do presume to print the same.

Privileges,—*Ordered*, That a committee of privileges be appointed.

Journal,—*Ordered*, That the journal of this House, from the end of the last session to the end of the present session, with an index thereto, be printed.

Ordered, That 500 copies of[1] the said journal and index be printed by the appointment and under the direction of . . . the Clerk of this House.

Ordered, That the said journal and index be printed by such person as shall be licensed by Mr. Speaker, and that no other person do presume to print the same.

Ballot for Bills and Motions,—*Ordered*, That no bills, other than Government bills, be introduced in anticipation of the ballot, and that all members who desire to ballot, whether for bills, or for motions for Tuesday . . February, and Tuesday . . February, and Wednesday . . February, and Wednesday . . February, do hand in their names at the table during the sitting of the House on the first or second day of the session, and that a copy of such notices be handed in at the latest during the sitting of the House on the third day of the session.

That the ballot for the precedence of the said bills and motions be taken on the third day on which the House sits, at a convenient time and place, to be appointed by Mr. Speaker, and that the presentation of bills on the fourth sitting day be taken as soon after twelve o'clock as Mr. Speaker may deem convenient.

Standing Orders,—*Ordered*, That the select committee on standing orders do consist of thirteen members: . . . . . were accordingly *nominated* members of the committee.

Selection,—*Ordered*, That the committee of selection do consist of . . . and the chairman of the select committee on standing orders.

Supply,—*Resolved*, That this house will on . . . next resolve itself into a committee to consider of the supply to be granted to His Majesty.

Ordered, That the several estimates presented to this house in the present session be referred to the committee of supply.

House of Commons (Kitchen and Refreshment Rooms),—*Ordered*, That a select committee be appointed to control the arrangements for the kitchen and refreshment rooms in the department of the serjeant-at-arms attending this House.

Ordered, That the committee do consist of seventeen members.

The committee was accordingly *nominated* of . . . . . .

Ordered, That the committee have power to send for persons, papers, and records.

Ordered, That three be the quorum.

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[1] The number of copies was omitted in 1907.

PUBLIC PETITIONS,—*Ordered*, That a select committee be appointed, to whom shall be referred all petitions presented to the House with the exception of such as relate to private bills; and that such committee do classify and prepare abstracts of the same, in such form and manner as shall appear to them best suited to convey to the house all requisite information respecting their contents, and do report the same from time to time to the house; and that the reports of the committee do set forth the number of signatures to each petition only in respect to those signatures to which addresses are affixed:—And that such committee have power to direct the printing *in extenso* of such petitions, or of such parts of petitions, as shall appear to require it:—And that such committee have power to report their opinion and observations thereupon to the House.

The committee was accordingly *nominated* of . . . . . .

Ordered, That three be the quorum.

PUBLIC ACCOUNTS,— *Ordered*, That the committee of public accounts do consist of fifteen members [committee nominated].

STANDING COMMITTEES,—*Ordered*, That all standing committees have leave to print and circulate with the votes the minutes of their proceedings, and any amended clauses of bills committed to them.

POLICE AND SANITARY COMMITTEE,—*Ordered*, That the committee of selection do nominate a committee not exceeding eleven members, to be called the Police and Sanitary Committee, to whom shall be committed all private bills promoted by municipal and other local authorities by which it is proposed to create powers relating to police or sanitary regulations in conflict with, deviation from, or excess of the provisions of the general law.

Ordered, That Standing Orders 150 and 173A apply to all such bills.

Ordered, That the committee have power to send for persons, papers, and records.

Ordered, That four be the quorum of the committee.

Ordered, That if the committee shall report to the committee of selection that any clauses of any bill referred to them (other than clauses containing police and sanitary regulations) are such as, having regard to the terms of reference, it is not in their opinion necessary or advisable for them to deal with, the committee of selection shall thereupon refer the bill to a select committee, who shall consider those clauses and so much of the preamble of the bill as relates thereto, and shall determine the expenditure (if any) to be authorised in respect of the parts of the bill referred to them. That the committee shall deal with the remaining clauses of such bill, and so much of the preamble as relates thereto, and shall determine the period and mode of repayment of any money authorised by the select committee to be borrowed, and shall report the whole bill to the house, stating in their report what parts of the bill have been considered by each committee.

Ordered, That the committee have power, if they so determine, to sit as two committees, and in that event to apportion the bills referred to the committee between the two committees, each of which shall have the full powers of, and be subject to the instructions which apply to, the undivided committee; and that three be the quorum of each of the two committees.

III

Speaker Brand's Urgency Rules

RULES FRAMED BY MR. SPEAKER FOR THE REGULATION OF THE BUSINESS OF THE HOUSE, WHILE THE STATE OF PUBLIC BUSINESS IS URGENT.

Motions for Adjournment.

1. That no motion for the adjournment of the House shall be made, except by leave of the House, before the orders of the day or notices of motions have been entered upon.

2. That when a motion is made for the adjournment of a debate, or of the House, during any debate, the debate thereupon shall be strictly confined to the matter of such motion.

3. That, if during any debate, a motion be made for the adjournment of the debate, or of the House, Mr. Speaker may decline to put the question thereupon, if, in his judgment, such motion is made for the purpose of obstruction; or, if he think fit to put such question, he may put it from the chair forthwith.

4. That no member, having spoken to a motion for the adjournment of a debate, or of the House, during any debate, shall be entitled to move, or to speak to any similar motion, during the same debate.

Irrelevance or Repetition.

5. That Mr. Speaker may call the attention of the House to continued irrelevance or tedious repetition on the part of a member; and may direct the member to discontinue his speech.

Putting the Question.

6. That when it shall appear to Mr. Speaker, during any debate, to be the general sense of the House, that the question be now put, he may so inform the House; and on a motion being made "That the question be now put," Mr. Speaker shall forthwith put such question; and if the same be decided in the affirmative, by a majority of three to one, the question previously under debate shall be forthwith put from the chair.

House resolving itself into Committee.

7. That when the order of the day for the committee on any bill, or other matter declared urgent, is read, Mr. Speaker shall forthwith leave the chair, without putting any question; and the House shall thereupon resolve itself into such committee.

Consideration of Bill as amended.

8. That, on reading the order of the day for the consideration of a bill (declared urgent) as amended, the House do proceed to consider the same, without question put.

Divisions.

9. That when, before a division, Mr. Speaker's decision that the "Ayes," or "Noes," have it is challenged, Mr. Speaker may call upon the members challenging it, to rise in their places; and if they do not exceed twenty, he may forthwith declare the determination of the House.

Rules regulating the Proceeding of a Committee of the whole House upon any Bill, or other Matter declared Urgent.

Motions to Report Progress, &c.

10. That when a motion is made, that the chairman do report progress or do leave the chair, the debate shall be strictly confined to the matter of such motion.

11. That if a motion, that the chairman do report progress, or do leave the chair, be made, the chairman may decline to put the question thereupon, if, in his judgment, such motion is made for the purpose of obstruction; or, if he think fit to put such question, he may put it from the chair forthwith.

12. That no member, having spoken to a motion, that the chairman do report progress, or do leave the chair, shall be entitled to move, or to speak to, any similar motion, during the same sitting of the committee.

Irrelevance or Repetition.

13. That the chairman may call the attention of the committee to continued irrelevance, or tedious repetition, on the part of a member; and may direct the member to discontinue his speech.

Members to speak once only.

14. That no member shall be allowed to speak more than once to the same question; unless the member in charge of the bill, or any member who has made a motion, or moved an amendment, desires to offer explanations.

Preamble postponed.

15. That the preamble of a bill do stand postponed until after the consideration of the clauses, without question put.

Divisions.

16. That when, before a division, the chairman's decision that the "Ayes" or "Noes" have it, is challenged, the chairman may call upon the members challenging it to rise in their places, and, if they do not exceed twenty, he may forthwith declare the determination of the committee.

Questions to be put forthwith.

17. That, when, by any of the rules framed by Mr. Speaker, a question is to be put from the chair forthwith, no amendment, adjournment, or debate shall be allowed.

Additional Rules framed by Mr. Speaker for the Regulation of the Business of the House, while the state of Public Business is Urgent.

Order to Committee to Report, or Consideration of Bill to be concluded.

1. That on a motion being made, after notice, that the chairman of a committee upon any bill, declared urgent, do report the same to the House, on or before a certain day and hour; or that the consideration of any such bill, as amended, be concluded, on or before a certain day and hour; the question thereupon shall be forthwith put from the chair, but shall not be decided in the affirmative, unless voted by a majority of three to one.

Consideration of Bill as amended.

2. That when the House has ordered that the consideration of a bill, as amended, be concluded, on or before a certain day and hour, the several new clauses and amendments shall be put forthwith, after the member who has moved any new clause or amendment, and a member in charge of the bill has been once heard: or if a member in charge of the bill has himself moved a new clause or amendment, after one other member has been once heard thereupon.

Additional Rule regulating the Proceedings of a Committee of the whole House upon any Bill, or other Matter declared Urgent.

Proceedings in Committee when ordered to Report.

3. That when the House has ordered that the chairman of a committee on a bill do report the same on or before a certain day and hour, the several amendments and new clauses, not yet disposed of, shall be put forthwith, after the member who has moved any amendment or new clause, and a member in charge of the bill has been once heard: or if a member in charge of the bill has himself moved an amendment, or new clause, after one other member has been once heard thereupon; and if the proceedings of the committee have not been concluded at the appointed hour, the chairman shall leave the chair, and report the bill to the House.

17th February 1881.

Additional Rule framed by Mr. Speaker for the Regulation of the Business of the House, while the state of Public Business is Urgent, in lieu of the Rules laid upon the Table on the 17th February.

Proceedings in Committee, and on Consideration of Bill as amended.

That on a motion being made, after notice, by a minister of the Crown, that in committee upon any bill, declared urgent, or upon the consideration of any such bill, as amended, the remaining clauses of the bill, and any amendments and new clauses then standing upon the notice paper shall, on and after a certain day and hour, be put forthwith; the question thereupon shall be forthwith put from the chair, but shall not be resolved in the affirmative, unless voted by a majority of three to one.

18th February 1881.

Additional Rules framed by Mr. Speaker for the Regulation of the Business of the House, while the state of Public Business is Urgent.

Committees of Supply and Ways and Means.

1. That when certain votes in Committees of Supply and Ways and Means have been declared urgent, and such committees have precedence, by any standing order, or by any resolution of the House, agreed to upon a motion made, after notice, by a minister of the Crown, put forthwith, and decided by a majority of three to one; on the order of the day being read for either of the said committees, Mr. Speaker shall forthwith leave the chair, without putting any question; and the House shall thereupon resolve itself into such committee.

2. That, in lieu of the customary forms of procedure in the Committees of Supply and Ways and Means, when certain votes have been declared urgent, the general rules of the House concerning the proposal of questions and amendments be observed in such committees.

3. That, while any vote declared urgent, is before the committee questions confined to matters of fact, in relation to such vote, may be answered by a minister, in charge of the estimates, without affecting his right to speak generally to the question before the committee.

4. That if it shall appear to the chairman, during any debate, when certain votes have been declared urgent, to be the general sense of the committee, that the question be now put, he may so inform the committee; and on a motion being made "That the question be now put," the chairman shall forthwith put such question; and if the same be decided in the affirmative, by a majority of three to one, the question previously under debate shall be forthwith put from the chair.

11th March 1881.

IV

Closure Rule as proposed by the Government in 1887

That at any time after a question has been proposed a motion may be made, if the consent of the chair has been previously obtained, "That the question be now put." Such motion shall be put forthwith and decided without amendment or debate.

When the motion "That the question be now put" has been carried, and the question consequent thereon has been decided, any further motion may be made (the consent of the chair having been previously obtained) which may be requisite to bring to a decision any question already proposed from the chair; and also if a clause be then under consideration, a motion may be made (with the consent of the chair as aforesaid) that the question "That the clause stand part" or "be added to the bill," be now put. Such motions shall be put forthwith, and decided without amendment or debate.

Provided always, that questions for the closure of debate shall not be decided in the affirmative, if a division be taken, unless it shall appear by the numbers declared from the chair, that such motion was supported by more than two hundred members, or was opposed by less than forty members and supported by more than one hundred members.

V

Standing Order No. 1 as adopted in 1888

Sittings of the House.

Rule regulating the usual Sittings of the House.

1. [24 February 1888.] That, unless the House otherwise order, the House shall meet every Monday, Tuesday, Thursday, and Friday, at three of the clock, and shall, unless previously adjourned, sit till one of the clock a.m., when the Speaker shall adjourn the House without question put, unless a bill originating in Committee of Ways and Means or unless proceedings made in pursuance of any act of parliament or standing order, or otherwise exempted as hereinafter provided from the operation of this standing order, be then under consideration.

That at midnight on Mondays, Tuesdays, Thursdays, and Fridays, except as aforesaid, and at half-past five of the clock on Wednesdays, the proceedings on any business then under consideration shall be interrupted; and, if the House be in committee, the chairman shall leave the chair, and make his report to the House; and if a motion has been proposed for the adjournment of the House, or of the debate, or in committee That the chairman do report progress, or leave the chair, every such dilatory motion shall lapse without question put; and the business then under consideration, and any business subsequently appointed, shall be appointed for the next day on which the House shall sit, unless the Speaker ascertains by the preponderance of voices that a majority of the House desires that such business should be deferred until a later day.

Provided always, That on the interruption of business the closure may be moved; and if moved, or if proceedings under the closure rule be then in progress, the Speaker or chairman shall not leave the chair, until the questions consequent thereon and on any further motion, as provided in the rule "Closure in debate," have been decided.

That after the business under consideration at twelve, and half-past five respectively, has been disposed of, no opposed business shall be taken; and the orders of the day, not disposed of at the close of the sitting, shall stand for the next day on which the House shall sit.

That a motion may be made by a minister of the Crown at the commencement of public business, to be decided without amendment or debate, to the following effect: "That the proceedings on any specified business if under discussion at twelve this night, be not interrupted under the standing order 'Sittings of the House.'"

Provided always, That after any business exempted from the operation of this resolution is disposed of, the remaining business of the sitting shall be dealt with according to the provisions applicable to business taken after twelve o'clock.

Provided also, That the Chairman of Ways and Means do take the chair as deputy speaker, when requested so to do by Mr. Speaker, without any formal communication to the House. And that Mr. Speaker do nominate, at the commencement of every session, a panel of not more than five members to act as temporary chairman of committees, when requested by the Chairman of Ways and Means.

VI

Supply Rule of 1896

That so soon as the Committee of Supply has been appointed and estimates have been presented, the business of supply shall (until it be disposed of) be the first order of the day on Friday, unless the House otherwise order, on the motion of a minister of the Crown moved at the commencement of public business, to be decided without amendment or debate.

Not more than twenty days, being days when the Speaker leaves the chair for the Committee of Supply without question put, counting from the first day on which the Speaker so left the chair under Standing Order No. 56, shall be allotted for the consideration of the annual estimates for the army, navy, and civil services, including votes on account, the business of supply standing first order on every such day.

On the nineteenth of such allotted days at ten o'clock p.m., the chairman shall proceed to put forthwith every question necessary to dispose of the outstanding votes in Committee of Supply; and on the twentieth of such allotted days the Speaker shall at ten o'clock p.m. proceed to put forthwith every question necessary to complete the outstanding reports of supply.

On the days appointed for concluding the business of supply the consideration of such business shall not be anticipated by a motion of adjournment under Standing Order No. 17; nor may any dilatory motion be moved on such proceedings; nor shall they be interrupted under the provisions of any standing order relating to the sittings of the House.

Provided always, that the days occupied by the consideration of estimates supplementary to those of a previous session, or of any vote of credit, shall not be included in the computation of the twenty days. Provided also that two morning sittings shall be deemed equivalent to one three o'clock sitting; and that, except in the case of a dissolution of Parliament or other emergency, the said twenty days shall be allotted, so that the business of supply be concluded before the 5th of August.

VII

Procedure Reform Scheme of 1902

1.—Order in Debate.

Amendment of Standing Order 21:—

That, whenever any member shall have been named by the Speaker, or by the chairman of a committee of the whole House, immediately after the commission of the offence of disregarding the authority of the chair, or of abusing the rules of the House by persistently and wilfully obstructing the business of the House or otherwise, then if the offence has been committed by such member in the House, the Speaker shall forthwith put the question, on a motion being made, no amendment, adjournment or debate being allowed, "That such member be suspended from the service of the House"; and, if the offence has been committed in a committee of the whole House, the chairman shall [on a motion being made, put the same question in a similar way, and, if the motion is carried, shall] forthwith suspend the proceedings of the committee and report the circumstance to the House; and the Speaker shall thereupon put the same question, without amendment, adjournment or debate, as if the offence had been committed in the House itself.

If any member be suspended under this order, his suspension on the first occasion *in any session* shall continue until the *expiration of the next twenty days on which the House sits*, on the second occasion *until the expiration of the next forty days on which the House sits*, and on the third or any subsequent occasion, *until the expiration of the next eighty days on which the House sits, and the number of days of suspension shall be reckoned irrespectively of any prorogation or adjournment.*

If a member is suspended under this order his suspension shall notwithstanding the expiration of the days of suspension aforesaid, continue until he has written a letter to the Speaker, expressing his sincere regret to the House for the offence for which he has been suspended.

[Provided always that suspension from the service of the House shall not exempt the member so suspended from serving on any committee for the consideration of a private bill to which he may have been appointed before his suspension.]

Provided [also] that not more than one member shall be named at the same time, unless several members, present together, have jointly disregarded the authority of the chair.

Provided also, that if any member or members acting jointly who have been suspended under this order from the service of the House shall refuse to obey the direction of the Speaker, when severally summoned under the Speaker's orders by the Serjeant-at-arms to obey such direction, the Speaker shall call the attention of the House to the fact that recourse to force is necessary in order to compel obedience to his direction, and the member or members named by him as having refused to obey his directions shall thereupon, and without further question put, be suspended from the service of the House during the remainder of the session, *or for*

the next eighty days on which the House sits in that or any subsequent session of the same parliament whichever period is the longest.

Provided always that nothing in this resolution shall be taken to deprive the House of the power of proceeding against any member according to ancient usages.

2.—Power for Speaker to adjourn House or suspend Sitting.

Proposed New Standing Order :—

The Speaker may, if in the interests of order he thinks it desirable to do so, adjourn the House without question put, or suspend any sitting for a time to be named by him.

3.—Sittings of the House.

Amendment of Standing Order 1, *and proposed substitute for Standing Orders* 4, 5, 6, 7 *and* 8 :—

That unless the House otherwise order, the House shall meet every Monday, Tuesday, *Wednesday and* Thursday at *two of the clock for an afternoon sitting, and at nine of the clock for an evening sitting.*

If the business appointed for an afternoon sitting is not disposed of at eight of the clock the sitting shall be suspended till nine o'clock.

At one of the clock at the evening sitting the Speaker shall adjourn the House without question put, except in the event of a bill originating in Committee of Ways and Means, or proceedings made in pursuance of any act of Parliament or standing order, or otherwise exempted as hereinafter provided from the operation of this standing order, being then under consideration.

That at 7.15 *and* at midnight on Mondays, Tuesdays, *Wednesdays* and Thursdays, except as aforesaid, and at half-past five of the clock on *Fridays*, the proceedings on any business then under consideration shall be interrupted, and, if the House be in committee, the chairman shall leave the chair and make his report to the House, and if a motion has been proposed for the adjournment of the House, or of the debate, or in committee, that the chairman do report progress, or do leave the chair, every such dilatory motion shall lapse without question put.

Provided always that on the interruption of business the closure may be moved, and if moved, or if proceedings under the closure rule be then in progress, the Speaker or chairman shall not leave the chair until the questions consequent thereon and on any further motion as provided in the rule "closure of debate" have been decided.

Immediately after the interruption of business at an afternoon sitting questions shall be taken, and no other business shall be taken after questions.

After the interruption of business at an evening sitting no opposed business shall be taken.

All business appointed for any sitting and not disposed of before the termination of the sitting shall stand over until the next sitting, or until such other sitting on any day on which the house ordinarily sits as the member in charge of the business may appoint.

That a motion may be made by a minister of the Crown at the commencement of public business, to be decided without amendment or debate to the following effect: "That the proceedings on any specified business, if under discussion at twelve this night, be not interrupted under

the standing order—'Sittings of the House'"; *or to the following effect:* "*That the proceedings on any specified business if under discussion on the interruption of business at this afternoon's sitting, be resumed and proceeded with after the interruption of business at this evening's sitting.*"

Provided always that after any business exempted from the operation of this order is disposed of, the remaining business of the sitting shall be dealt with according to the provisions applicable to business taken after midnight.

Provided also that the Chairman of Ways and Means shall take the chair as deputy-speaker, when requested so to do by Mr. Speaker, without any formal communication to the House. And Mr. Speaker shall nominate, at the commencement of every session, a panel of not more than five members to act as temporary chairmen of committees when requested by the Chairman of Ways and Means.

4.—Amendment of Standing Order 2.

That the House do meet every *Friday* at twelve o'clock at noon for private business, petitions, orders of the day, and notices of motion, and do continue to sit until six o'clock unless previously adjourned.

5.—Proposed Substitute for Standing Orders 10 and 11.

Unless the House otherwise direct—

(*a*) Government business shall have precedence at every sitting except the evening sittings on Tuesday and Wednesday, and the sitting on Friday;

(*b*) On the evening sittings of Tuesday and Wednesday notices of motion shall have precedence of orders of the day;

(*c*) After Easter Government business shall have precedence at the evening sittings of Tuesday;

(*d*) After Whitsuntide Government business shall have precedence at all evening sittings, and at all Friday sittings except the sittings on the third and fourth Fridays after Whit Sunday.

6.—Proposed new Standing Order in Lieu of Sessional Order as to Supply.

As soon as the Committee of Supply has been appointed and estimates have been presented, the business of supply shall, until disposed of, be the first order of the day on Thursday, unless the House otherwise order on the motion of a minister of the Crown, moved at the commencement of public business, to be decided without amendment or debate.

Not more than twenty days, being days before the 5th of August, shall be allotted for the consideration of the annual estimates for the army, navy, and civil services, including votes on account. The days allotted shall not include any day on which the question has to be put that the Speaker do leave the chair or any day on which the business of supply does not stand as first order.

Provided that the days occupied by the consideration of estimates supplementary to those of a previous session or of any vote of credit, or of votes for supplementary or additional estimates presented by the Government for war expenditure, shall not be included in the computation of the twenty days aforesaid.

Provided also that on motion made after notice by a minister of the Crown, to be decided without amendment or debate, additional time, not exceeding three days, may be allotted for the purposes aforesaid, either before or after the 5th of August.

On a day so allotted, no business other than business of supply shall, except on the last two of the allotted days, be taken before midnight unless it is unopposed, and no business in committee or proceedings on report of supply shall be taken after midnight, whether a general order for the suspension of the twelve o'clock rule is in force or not, unless the House otherwise order on the motion of a minister of the Crown, moved at the commencement of public business, to be decided without amendment or debate.

Of the days so allotted, not more than one day in committee shall be allotted to any vote on account, and not more than one sitting to the report of that vote. At midnight on the close of the day on which the committee on that vote is taken, and at the close of the sitting on which the report of that vote is taken, the chairman of committees or the Speaker, as the case may be, shall forthwith put every question necessary to dispose of the vote or the report.

At ten of the clock on the last day but one of the days so allotted the chairman shall forthwith put every question necessary to dispose of the vote then under consideration, and shall then forthwith put the question with respect to each class of the Civil Service estimates that the total amount of the votes outstanding in that class be granted for the services defined in the class, and shall in like manner put severally the questions that the total amounts of the votes outstanding in the estimates for the Army, the Navy, and the Revenue departments be granted for the services defined in those estimates.

At ten of the clock on the last allotted day the Speaker shall forthwith put every question necessary to dispose of the report of the resolution then under consideration, and shall then forthwith put with respect to each class of the Civil Service estimates the question that the House doth agree with the committee in all the outstanding resolutions reported in respect of that class, and shall then put a like question with respect to all the resolutions outstanding in the estimates for the Navy, the Army, the Revenue departments, and other outstanding resolutions severally.

On the days appointed for concluding the business of supply, the consideration of that business shall not be anticipated by a motion of adjournment, and no dilatory motion shall be moved on proceedings for that business, nor shall the business be interrupted under any standing order relating to the sittings of the House.

Any additional estimate for any new service or matter not included in the original estimates for the year shall be submitted for consideration in the Committee of Supply on some day not later than two days before the committee is closed.[1]

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[1] This proposed standing order reproduces the sessional order adopted at the beginning of the session of 1901, with the additions made on August 7th, 1901, and with certain other modifications, of which the following are the most material:—

1. Thursday is substituted for Friday.
2. The business of supply, including report, on allotted days is made to end at midnight.
3. The committee stage of a vote on account is confined to one day, and the report to one sitting.
4. On an allotted day, no business except supply is to be taken before midnight.

7.—Questions by Members.

Addition to Standing Order 20:—

On days when there are two sittings of the House, questions shall not be taken until after the interruption of business at the afternoon sitting except questions of an urgent nature relating to the order of business.

No questions shall be put by a member after the interruption of business except those of which notice has been given by that member, and any supplementary questions which may be asked in order to obtain a necessary explanation of the answers given. Only one such supplementary question may be asked in respect of any question of which notice has been given, and that only by the member by whom the notice has been given.

Any questions of which notice appears upon the order paper, but which for want of time cannot be put between the interruption of business at the afternoon sitting and eight of the clock, shall stand over until the interruption of business at midnight, provided that when the twelve o'clock rule is suspended the answers to any such questions shall be printed and circulated with the votes.

Any member who desires an oral answer to his question may distinguish his question by an asterisk. If he does not so distinguish it, or if he is not present to ask the question, the minister may cause the answer to be printed and circulated with the votes.

8.—Motions for the Adjournment.

Amendment of Standing Order 17:—

17. No motion for the adjournment of the House shall be made until all the questions *allowed to be asked at the commencement of business at the afternoon sitting* have been disposed of, and no such motion shall be made before the orders of the day or notices of motion have been entered upon, except by leave of the House, unless a member rising in his place *at an afternoon sitting* shall propose to move the adjournment for the purpose of discussing a definite matter of urgent public importance, and not less than forty members shall thereupon rise in their places to support the motion; or unless, if fewer than forty members and not less than ten shall thereupon rise in their places, the House shall, on a division, upon question put forthwith, determine whether such motion shall be made.

If the motion is so supported, or the House so determines that it shall be made, it shall stand over until the evening sitting of the same day.

9.—Private Business.

Proposed new standing order:—

All private business which is set down for Monday, Tuesday, Wednesday, or Thursday, and is not disposed of by twenty-five minutes after two, shall, without question put, be postponed until such time as the Chairman of Ways and Means may determine.

Unopposed private business shall have precedence over opposed private business.

10.—Quorum of the House.

Proposed new standing order:—

At an evening sitting the House shall not be counted before ten o'clock, but, if on a division taken on any business at an evening sitting before ten o'clock it appears that forty members are not present, the business shall stand over until the next sitting of the House, and the next business shall be taken.

11.—Standing Committees.

Amendment of Standing Order 47:—

That two standing committees be appointed for the consideration of all bills relating to law and courts of justice and legal procedure, and to trade, shipping, and manufactures, which may, by order of the House in each case, be committed to them, and the procedure in such committees shall be the same as in a select committee, unless the House shall otherwise order. Provided that strangers shall be admitted except when the committee shall order them to withdraw. Provided also that the said committees shall be excluded from the operation of the standing order of July 21st, 1856, and the said committees shall not sit *after* 2.30 *o'clock* without the order of the House. Provided also that any notice of amendment to any clause of a bill which may be committed to a standing committee, given by any honourable member in the House, shall stand referred to such committee. Provided also that twenty be the quorum of such standing committees.

12.—Committee of Supply.

Amendment of Standing Order 56:—

That whenever the Committee of Supply stands as an order of the day [on Monday or Thursday] Mr. Speaker shall leave the chair without putting any question, unless on first going into supply on the army, navy or civil service estimates respectively, or on any vote of credit, an amendment be moved or question raised relating to the estimates proposed to be taken in supply.

13.—Proceedings on Report.[1]

The proceedings on the reports of Committees of Ways and Means and other committees authorising the expenditure of public money, except the Committee of Supply, may be entered upon at any hour though opposed, and shall not be interrupted under the provisions of the standing orders for the interruption of business at midnight or on Friday.

14.—Introduction and First Readings of Bills.

Addition to Standing Order 31:—

A member may, if he thinks fit, after notice, present a bill without an order of the House for its introduction, and when a bill is so presented, the

[1] This takes the place of an order which is moved every session.

title of the bill shall be read by the clerk at the table, and the bill shall then be deemed to have been read a first time, and shall be printed.[1]

15.—Second and Third Readings.

Proposed new standing order:—

If on the question that a bill be now read a second or a third time it is decided that the word "now" stand part of the question, the bill shall be so read accordingly.

16.—Committal of Bills.

Proposed new standing order:—

Every bill shall, after second reading, stand committed to a committee of the whole House, unless before the second reading a member has signified his intention to move by way of amendment that it be committed to a standing committee or any other committee, or that it be committed to any such other committee with instructions to report to a standing committee. Any such proposal may be debated on the second reading of the bill, and immediately after the bill is read a second time, the question or questions thereon shall be put without amendment or further debate, notwithstanding that the time for the interruption of business may have passed.

17.—Withdrawal of Clauses.

Proposed new standing order:—

A committee on a bill may, on motion made by the member in charge of the bill before the consideration of amendments on any particular clause or clauses, order that the clause or clauses be omitted.

18.—Report of Bill.

Proposed new standing order:—

When a bill is considered on the report of a committee of the whole House, no amendment may be moved except amendments moved by the member in charge of the bill and amendments arising out of any change in the bill made in the committee.

19.—Money Resolutions.

Proposed new standing order:—

On the report of any money resolution of a committee of the whole House, except any resolution of the Committee of Supply or any resolution on which the clauses of the Finance Bill for the year are founded, no amendment or debate shall be allowed, and the question that the House do agree with the committee in that resolution shall be put forthwith.

20.—Report of Bill or Resolution.

Proposed new standing order:—

At the conclusion of a sitting of any committee of the whole House the chairman shall, without question put, leave the chair to make his report to

[1] This will leave three alternative modes of proceeding:—

1. Ordinary motion for leave to introduce a bill (a procedure which will still be required for important Government bills);
2. The mode of introduction under the so-called ten minutes rule (Standing Order 16);
3. Presentation of a bill without previous order for leave to introduce (House of Lords' practice).

the House, and the clerk shall proceed with the reading of the orders of the day: Provided that if the next business is in committee of the whole House, the report shall be made when the Speaker next resumes the chair.

21.—Divisions frivolously claimed.

Amendment to Standing Order 30:—

That Mr. Speaker or the chairman may, after the lapse of two minutes as indicated by the sand-glass, if in his opinion the division is frivolously or vexatiously claimed, take the vote of the House or committee, by calling upon the members who support and who challenge his decision successively to rise in their places; and he shall, thereupon, as he thinks fit, either declare the determination of the House or Committee, or name tellers for a division. [And in case there is no division the Speaker or Chairman shall declare to the House or the Committee the number of the minority who had challenged his decision, and their names shall be thereupon taken down in the House, and printed with the list of divisions.]

22.—Office of Speaker.

Addition to Standing Order 83:—

At the commencement of every parliament or from time to time, as necessity may arise, the House may appoint an Assistant Chairman, who shall, whenever the House is informed of the unavoidable absence of the Chairman of Ways and Means, be entitled to exercise all the powers vested in the Chairman of Ways and Means, including his powers as Deputy Speaker.

23.—Committee of Privileges.

Proposed new standing order:—

If any question of privilege is raised by a member of the House, except a question arising out of the relations between the two Houses of Parliament, it shall, if a minister of the Crown so claims, stand referred without debate or division to the Committee of Privileges for inquiry and report.

24.—Consolidation Bills.

Proposed new standing order:—

A select committee on Consolidation bills shall be nominated at the commencement of every session by the Committee of Selection. The Committee of Selection shall have power to discharge members nominated on the committee, and to appoint members to serve in the place of those discharged, and also to add members to the committee in respect of any particular bill.

Every Consolidation bill shall, after second reading, stand referred to the select committee on Consolidation bills, who shall report whether the bill makes any alterations in the law, and, if so, what those alterations are, and who shall have power to send for persons, papers, and records. If the committee report that the bill makes no alterations in the law, the bill shall stand for third reading. If the committee report that the bill makes any alterations in the law, the discussion on the bill in committee and on report shall be limited to those alterations.

VIII

Proclamation dissolving Parliament and summoning another

BY THE QUEEN

A proclamation for dissolving the present Parliament and declaring the calling of another.

VICTORIA R.—Whereas We have thought fit, by and with the advice of Our Privy Council, to dissolve this present Parliament, which stands prorogued to Tuesday, the 13th day of April next, We do for that end publish this Our royal proclamation, and do hereby dissolve the said Parliament accordingly; and the Lords Spiritual and Temporal, and the knights, citizens, and burgesses, and the commissioners for shires and burghs, of the House of Commons are discharged from their meeting and attendance on the said Tuesday, the 13th day of April next; and We, being desirous and resolved, as soon as may be, to meet Our people, and to have their advice in Parliament, do hereby make known to all Our loving subjects Our royal will and pleasure to call a new Parliament; and do hereby further declare, that, with the advice of Our Privy Council, we have given order that Our Chancellor of that part of Our United Kingdom called Great Britain and Our Chancellor of Ireland, do, respectively, upon notice thereof, forthwith issue out writs in due form and according to law, for calling a new Parliament. And We do hereby also, by this Our royal proclamation under Our Great Seal of Our United Kingdom require writs forthwith to be issued accordingly by Our said Chancellors respectively for causing the Lords Spiritual and Temporal and Commons, who are to serve in the said Parliament, to be duly returned to, and to give their attendance in, Our said Parliament; which writs are to be returnable on Thursday, the 29th day of April next.

Given at Our Court at Windsor this 24th day of March, in the year of our Lord 1880, and in the 43rd year of Our reign.

God save the Queen.

IX

Order in Council for the Issue of Writs

At the Court at Windsor, the 24th day of March, 1880. Present, The Queen's most Excellent Majesty in Council. Her Majesty having been this day pleased by Her royal proclamation to dissolve the present Parliament and to declare the calling of another, is hereby further pleased, by and with the advice of Her Privy Council, to order that the Right Honourable the Lord High Chancellor of that part of the United Kingdom called Great Britain, and the Right Honourable the Lord Chancellor of Ireland, do respectively, and upon notice of this Her Majesty's order, forthwith cause writs to be issued in due form and according to law for the calling of a new Parliament, to meet at the City of Westminster; which writs are to be returnable on Thursday, the 29th day of April, 1880.

X

Motion and Amendment

Motion made and question proposed "That this House, believing that the protective taxation of food would be burdensome to the people and injurious to the Empire, welcomes the declarations of Ministers, that the Government is opposed to such taxation."—(*Mr. Black*).

Amendment proposed—

To leave out the words from "House" to the end of the question in order to add the words "considers it unnecessary to discuss the question of fiscal reforms and the declaration of the Prime Minister at Sheffield on 1st October in regard to which His Majesty's Government have announced that no proposals will be laid before the present Parliament, and expressing its continued confidence in the present administration, desires to proceed with the business proposed in the gracious speech from the throne" (*Mr. Wyndham*)—instead thereof.

Question proposed "that the words proposed to be left out stand part of the question."

Question put: the House divided:—Ayes, 251; Noes, 306 (Division List, No. 127).

Question proposed "that those words be there added."

And it being after midnight, and objection being taken to further proceeding, the debate stood adjourned.

[*Parliamentary Debates* (135), 253 *sqq.*]

XI

Amending a Bill in Committee

IRISH LAND BILL, 1903

In Committee on Irish Land Bill

Mr. Carew,—

Clause 1, page 1, line 1, before "on" insert "as modified by this act."

To move the following clause:—

In the Purchase of Land (Ireland) Amendment Act, 1888, for the words "three thousand" and "five thousand" substitute respectively the words "six thousand" and "ten thousand."

Mr. Tully,—

Clause 1, page 1, line 8, after "of" nsert "an application by the tenants for."

Clause 1, page 1, line 8, after "of the" insert "compulsory."

Clause 1, page 1, lines 12 and 13, leave out "the limitations in."

Clause 1, page 1, line 19, after "is" insert "either a future tenancy, a town park, or a holding with a mill attached or."

Clause 1, page 1, line 23, leave out "ten" and insert "fifteen."

Clause 1, page 1, line 24, leave out "thirty" and insert "twenty-five."

Clause 1, page 1, line 28, leave out "twenty" and insert "forty."

Clause 1, page 1, line 28, leave out "forty" and insert "sixty."

Clause 1, page 1, line 28, after "twenty" leave out to end of sub-section.

Clause 2, page 2, line 10, leave out "ten" and insert "fifty."

Clause 2, page 2, line 30, leave out "five" and insert "twenty."

Clause 2, page 2, line 42, leave out "five hundred" and insert "five thousand."

Clause 2, page 3, line 3, leave out "one" and insert "five."

Clause 3, page 3, line 17, leave out "occupation" and insert "in his own use."

Clause 3, page 3, line 17, leave out "adjacent to the estate" and insert "within one mile of his residence."

Clause 4, page 3, line 28, after "purchase" insert "by any county or district council, or."

Clause 5, page 3, line 38, after "estate" insert "or the majority of the tenants apply."

Clause 5, page 3, line 38, after the third "the" insert "compulsory."

Clause 5, page 4, line 23, at end, insert—

And the Lord Lieutenant shall, where it is necessary for the preservation of the peace, dispense with the conditions as to voluntary sale, and direct the provisions of the Lands Clauses Act as shall apply to the purchase of an estate by the Land Commission and the re-sale to the tenants where it can be effected without prospect of loss.

Clause 5, page 4, line 34, leave out "an estate" and insert "any estate in the province of Connaught, and counties of Donegal, Clare, Kerry, and Cork."

Clause 5, page 4, line 35, leave out "half" and insert "one-fourth."

Page 7, leave out clause 12.

Clause 82, page 35, line 6, leave out "two shillings and sixpence" and insert "three shillings and sixpence."

To move the following clauses:—

Notwithstanding anything in any previous act, nothing in this act shall prevent the purchase by the Land Commission of any estate situate in any town which is not a parliamentary borough, and the sale of the holdings to the tenants in occupation of same on the terms of purchase provided in this act.

One-fourth the amount of the perpetual rentcharge, amounting to one hundred thousand pounds per annum, shall be applied in each year after the passing of this act towards the cost of providing labourers' cottages in the several counties under the Labourers' (Ireland) Acts, 1883 to 1896, on such terms and conditions and subject to such regulations as the Lord Lieutenant thinks expedient.

The rentcharge provided in this act shall be collected by the general council of county councils constituted under section sixteen of the Local Government (Ireland) Act, 1902.

Dr. Thompson,—

Clause 53, page 28, lines 5 and 6, leave out "one commissioner instead of."

Page 37, after clause 84, insert the following clauses:—

Where there is a labourer in occupation of a cottage which is declared on inspection by the health officer both unhealthy and possessing insufficient accommodation, and which is necessary for the proper working of the farm upon which it is built, the district council, on receiving the health officer's report shall direct the erection of a new cottage, and shall have power to purchase an acre of ground surrounding the cottage, for the purposes of the labourer, etc., etc.

XII

Weekly Summary of the position of Legislation

PUBLIC BILLS, SESSION, 1903 (MAY 4).

Those marked thus * are Government Bills.

Title of Bill.	Brought in by—	Progress.
Addenbrooke's Hospital [110].	*Sir Richard Jebb* -	2nd reading, Mon., May 4.
Aged Pensioners [11] -	*Mr. Remnant* - -	2nd reading, Fri., May 22.
Aged Pensioners (No. 2) [57].	*Mr. Samuel Roberts* -	2nd reading, Fri., May 22.
Architects (Registration) [165].	*Mr. Atherley Jones* -	2nd reading, Mon., May 18.
*Army (Annual) [114] -	*Mr. Secretary Brodrick*	*Royal Assent*, April 30.
Bank Holidays (Ireland [58].	*Mr. O'Mara* - -	*Royal Assent*, Mar. 27.
Bankruptcy Act (1883), Amendment [86].	*Mr. Brynmor Jones* -	2nd reading, Fri., May 8.
*Berwickshire County Town [98].	*The Lord Advocate* -	*Passed*, Mar. 31.
*Borough Funds [83] -	*Mr. Long* - -	3rd reading, Mon., May 4.
British and Irish Meat Protection [148].	*Mr. Alfred Davies* -	2nd reading, Mon., May 4.
Burgh Police (Scotland) [135].	*Mr. Asher* - -	2nd reading, Mon., May 4.
Cheap trains [150] -	*Captain Norton* -	*Withdrawn*, April 24.
Church discipline [1] -	*Mr. David MacIver* -	Committee (*Progress*), Fri., June 19.
Church discipline (No. 2) [78].	*Mr. Cripps* - -	2nd reading, Tues., May 5.
Clubs registration (Scotland) [153].	*Mr. Cameron Corbett*	2nd reading, Tues., May 5.
Coal mines (certificates) [131].	*Mr. Samuel Evans* -	2nd reading, Mon., May 4.
Coal Mines Regulation [10].	*Mr. Markham* -	2nd reading, Fri., May 15.
Colonial marriages [43]	*General Laurie* -	2nd reading, Fri., June 12.
Congested districts (Scotland) [107].	*Mr. John Dewar* -	2nd reading, Fri., May 8.
Congested districts (Scotland) Act (1897) Amendment [40].	*Mr. John Dewar* -	*Withdrawn*, Mar. 2.
*Consolidated Fund (No. 1).	*Mr. Chancellor of the Exchequer.*	*Royal Assent*, Mar. 27.
etc.	etc.	etc.

XIII

Votes and Proceedings of the House of Commons

THURSDAY, 24TH MARCH 1904.

1. Private Bills [*Lords*] (Standing Orders not previously inquired into complied with),—Mr. Speaker laid upon the table report from one of the examiners of petitions for Private Bills, that, in the case of the following bill, originating in the Lords, and referred on the first reading thereof, the standing orders not previously inquired into, and which are applicable thereto, have been complied with, viz.:—

Weston-super-Mare Grand Pier Bill [*Lords*].

Ordered, that the bill be read a second time.

2. Private Bills [*Lords*] (Compliance with proofs required by Standing Orders Committee),—Mr. Speaker laid upon the table report from one of the examiners of petitions for Private Bills, that in the case of the following bill, originating in the Lords, examined pursuant to the resolution of the select committee on standing orders agreed to by the House on the 22nd day of March, compliance with the further proofs required by the select committee on standing orders has been proved, viz.:—

Bristol Tramways (Extensions) Bill [*Lords*].

3. Chippenham Gas Bill,—read the third time and *passed*.

4. Great Eastern Railway Bill (King's *consent* signified,—read the third time and *passed*.

5. Kirkby-in-Ashfield Urban District Gas Bill
6. Sheppey Gas Bill
7. Torquay Tramways Bill
8. Wellington (Somerset) Gas Bill

} read the third time and *passed*.

9. Housing of the working classes, &c., Bill—Petition from Falkirk *against;* to lie upon the table.

10. Licence Holders,—Petition from Swansea, for redress of grievances; to lie upon the table.

11. Licences (Renewal),—Petitions against alteration of law; from Modbury; Sydenham; Treorchy; Halifax; Aylsham; Lincoln; Bolton; Bacup; Caerphilly; Gerard's Bridge; Luton; Tarleton; Gateshead; Glasgow; Swansea (two); Cromer; Rawdon and Cradley Heath; to lie upon the table.

12. Sale of Butter Bill,—Petitions against; from Aylesbury; East Ham; Exeter and Waltham Cross; to lie upon the table.

13. Transvaal (Chinese Labour Ordinance),—Petition from Appleby, for withdrawal; to lie upon the table.

14. National Debt Annuities,—Account *presented*,—of the gross amount of all Bank Annuities and any annuities for terms of years transferred, and of all sums of money paid to the Commissioners for the Reduction of the National Debt, and the gross amount of annuities for lives and for terms of years, etc., granted within the year ended 5th January 1904 [by Act]; to lie upon the table and to be *printed* [No. 109].

15. Africa (No. 4, 1904),—Copy *presented*,—of correspondence relating to the recruitment of labour in the British Central Africa Protectorate for employment in the Transvaal [by command]; to lie upon the table.

16. West Indies,—Copy *presented*,—of return of the exports of sugar and fruit from the British West Indies to England, Canada, and to all other countries for the years 1899–1900 and 1902–1903 [by command]; to lie upon the table.

17. Trade (British Colonies with foreign countries),—Return *presented*,—relative thereto [ordered 21st March; *Mr. Gerald Balfour*]; to lie upon the table, and to be *printed* [No. 110].

18. War Office (Reconstitution) Committee,—Copy *presented*,—of report of the War Office (Reconstitution) Committee, Part III. [by command]; to lie upon the table.

19. Musical Copyright Bill,—*reported*, with amendments, from the Standing Committee on Law, &c.

Report to lie upon the table, and to be *printed* [No. 111].

Minutes of the proceedings of the Standing Committee to be *printed* [No. 111].

Bill as amended (in the Standing Committee) to be taken into consideration *to-morrow*, and to be *printed* [Bill 137].

20. Town and County Councils (Qualification of Women) (Scotland) Bill—Second reading *deferred* from to-morrow till *Friday* 15th April.

21. St. Marylebone Electric Lighting Bill,—*reported* with amendments; report to lie upon the table and to be *printed*.[1]

22. Private Bills (Group E.),—Sir Alexander H. Brown *reported* from the committee on group E of Private Bills; that for the convenience of parties they had adjourned till Thursday 14th April, at two of the clock.

Report to lie upon the table.

23. Selection (Standing Committees),—Mr. Halsey *reported* from the Committee of Selection, that they had added to the Standing Committee on trade (including agriculture and fishing) shipping and manufactures, the following fifteen members in respect of the Railways (Private Sidings) Bill:—Sir John Brunner, Sir Frederick Banbury, Mr. Alexander Cross, Mr. Cripps, Mr. Bell, Mr. Black, Mr. Field, Mr. Kerr, Mr. Parrott, Sir Joseph Dimsdale, Colonel Lockwood, Mr. Reginald Lucas, Mr. Stroyan, Mr. Ure, and Mr. Osmond Williams.

Mr. Halsey further *reported;* that they had added to the standing committee on law and courts of justice, and legal procedure the following fifteen members in respect of the Hall-Marking of Foreign Plate Bill:—Mr. Norman, Mr. Caldwell, Mr. Bathurst, Sir James Joicey, Sir Edwin Durning-Lawrence, Mr. Langley, Mr. Schwann, Mr. Henderson, Mr. Lowe, Mr. Bull, Sir Thomas Esmonde, Mr. Charles Murray, Mr. Bonar Law, Colonel Denny, and Mr. Massey-Mainwaring.

Mr. Halsey further *reported;* that they had added to the standing committee on trade (including agriculture and fishing), shipping and manufactures, the following fifteen members in respect of the Savings Banks Acts Amendment Bill:—Sir Frederick Banbury, Sir James Woodhouse, Mr. Broadhurst, Sir Brampton Gurdon, Sir William Holland, Mr. O'Shaughnessy, Sir George Bartley, Mr. Edmund Faber, Mr. William Lawrence, Sir James Haslett, Sir Samuel Hoare, Mr. John Johnson, Sir George Fardell, Mr. Hayes Fisher, and Mr. Yoxall.

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[1] This report will be printed in the supplement to the votes.

Mr. Halsey further *reported;* that they had added to the standing committee on trade (including agriculture and fishing), shipping and manufactures the following fifteen members in respect of the Police (Superannuation) Bill:—Sir Robert Reid, Mr. Spear, Sir Howard Vincent, Mr. Edmund Robertson, Mr. Hay, Mr. Helme, Mr. Heywood Johnstone, Mr. Ainsworth, Mr. John Hutton, Colonel Stopford-Sackville, Mr. Fuller, Mr. Thomas Bayley, Mr. Tomkinson, Captain Bagot, and Mr. Hudson.

Reports to lie on the table.

24. Message from *the Lords*,—that they have *agreed to*,—Wild Birds Protection Acts Amendment Bill, *with* amendments.

That they have *passed* a bill intituled "An act to amend the law relating to the prevention of cruelty to children." [Prevention of cruelty to children (Amendment) bill [*Lords*].

Also, a bill intituled "An act to confer further powers on the Tynemouth Gas Company" [Tynemouth Gas Bill] [*Lords*].

And also, a bill intituled "An act to authorise the Preston, Chorley, and Horwich Tramways Company to construct works; and for other purposes" [Preston, Chorley, and Horwich Tramways Bill] [*Lords*].

25. Tynemouth Gas Bill [*Lords*].
26. Preston, Chorley, and Horwich Tramways Bill [*Lords*].
} Read the first time; and referred to the Examiners of Petitions for Private Bills.

27. Prevention of Cruelty to Children (Amendment) Bill [*Lords*],—read the first time; to be read a second time upon Monday next, and to be *printed.*

28. Poor Law Superannuation (Ireland) Bill,—Second reading deferred from to-morrow till *Monday* next.

29. Steam Engines and Boilers (persons in charge) Bill, "to grant certificates to persons in charge of steam-engines and boilers," *presented* by Mr. John Johnson; supported by Mr. John Wilson (Durham), Mr. Cameron, Mr. Levy, Mr. Jacoby, Mr. Fenwick, Mr. Paulton and Mr. Bell; to be read a second time upon *Wednesday*, 13th April, and to be *printed* [Bill 138].

30. Bishoprics of Southwark and Birmingham Bill,—"to provide for the foundation of bishoprics of Southwark and Birmingham, and for matters incidental thereto," *presented* by Mr. Balfour; supported by Mr. Secretary Akers-Douglas and Mr. Attorney-General; to be read a second time upon *Wednesday*, 13th April, and to be *printed* [Bill 136].

31. Business of the House (Supply),—*Ordered*, that the proceedings on the Consolidated Fund (No. 1) Bill, and on the Telegraph (Money) Bill have precedence this day of the Committee of Supply.—(*Mr. Balfour*).

32. Consolidated Fund (No. 1) Bill,—order for second reading read:

Motion made and question proposed, "That the bill be now read a second time":—Debate arising;

And it being half-past seven of the clock, the debate stood adjourned till *this evening*'s *sitting.*

33. London County Council (Tramways and Improvements) Bill (*by order*),—Motion made and question put "That it be an instruction to the committee on the London Council (Tramways and Improvements) Bill to omit Tramway No. 2" (*Sir Frederick Banbury*).—The House *divided;* Ayes, 159; Noes, 131.

34. London County Council (Tramways and Improvements) Bill (*by order*),—Motion made and question put "That it be an instruction to the committee on the London County Council (Tramways and Improvements)

Bill to omit Tramway No. 2A": (*Mr. Whitmore*).—The House *divided;* Ayes, 161; Noes, 123.

35. Telegraph (Money) Bill,—read a second time, and *committed* for *Monday* next.

36. Consolidated Fund (No. 1) Bill,—order read, for resuming adjourned debate on question [24th March] "That the bill be now read a second time":—

Question again proposed:—Debate *resumed:*—

Friday, 25th March 1904.

Question put:—The House *divided:* Ayes, 139; Noes, 39. Bill accordingly read a second time, and *committed* for *this day.*

37. Supply,—Committee *deferred* till *this day.*

38. Ways and Means,—Committee *deferred* till *this day.*

39. Justices of the Peace Bill [*Lords*],—second reading deferred till *Monday* next.

40. Penal Servitude Bill,—second reading deferred till *Monday* next.

(Twelve other second readings and motions deferred in same way.)

Adjourned at twenty minutes after one o'clock.

WILLIAM COURT GULLY,
Speaker.

There are further certain supplements, stating the private business for the next sitting and giving a list of the questions and motions, of which notice was given on the 24th March, most of them being for the next sittings (on Monday and Tuesday) but some for later sittings. There follow notices of four motions to be moved in Committee of Supply by reference to class and vote, and notices of motion to reduce the amounts proposed.

Then comes the *Notice Paper* for

FRIDAY, 25TH MARCH, 1904.

ORDERS OF THE DAY.

*a*1. Private Legislation Procedure (Wales) Bill,—second reading.

*a*2. Shops Bill,—second reading.

3. Liquor Traffic Local Veto Bill,—second reading.

5. Workmen's Compensation Bill,—second reading.

6. Tied Houses (Freeing) Bill,—second reading.

7. Old Age Pensions (No. 2) Bill,—second reading.

8. Public Trustee Bill,—second reading.

*a*9. Merchandise Marks Bill,—second reading.

10. Crofters' Holdings (Scotland) Acts Amendments Bill,—adjourned debate on second reading [8 March].[1]

11. Congested Districts (Scotland) Act, 1897, Amendment Bill,—second reading.

12. Married Women's Property Act, 1882, Amendment Bill,—second reading.

13. Highways Bill,—second reading.

*a*14. Musical Copyright Bill,—as amended (*by the Standing Committee*) to be considered.

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[1] Crofters' Holdings (Scotland) Acts Amendment Bill,—Order for second reading read; Motion made and question proposed, "That the bill be now read a second time."

*15. Consolidated Fund (No. 1) Bill,—Committee.
*16. Supply,—Committee.
*17. Ways and Means,—Committee.
a18. Marriage with a Deceased Wife's Sister Bill,—second reading.
19. Rating of Machinery Bill,—adjourned debate on motion for committal to Standing Committee on trade, &c. [18 March].[1]

(Those marked thus * are Government orders of the day.)

Questions.

1. Sir Walter Foster.—To ask the President of the Local Government Board if he can state the number of deaths registered in England and Wales for the last five years for which he has official returns, and the numbers certified and uncertified for each of the years.

2. Mr. Hugh Law.—To ask the Postmaster-General, whether he is aware that in the postal district of Falcarragh, county Donegal, there is an interval of barely two hours between the arrival and departure of the mails, and that in the Gweedore and Bunbeg postal districts, the mails do not arrive until 1 p.m. and 2 p.m. respectively, whilst there is no subsequent departure of letters until the following day, and whether, in the event of its being decided to forward the mails in future by rail instead of by road, he will take care that in all the districts affected there shall be at least one early delivery of letters and a reasonable time allowed for correspondence before the departure of the outgoing mail on the same day.

3. Master of Elibank.—To ask the Secretary for Scotland if he is aware that the ratepayers of Costorphine, Midlothian, are charged with the education of sixty-five boys and girls who, under a sheriff's or magistrate's committal order, have been sent from various parts of Scotland to an institution in that locality, managed and directed by the Society for the Prevention of Cruelty to Children; and, if so, whether he will consider the advisability of introducing legislation to relieve a country educational authority from bearing the burden of educating children unconnected with its district.

etc. etc. etc.

(There follow more than forty other questions.)

Notices of Motions.

Notices relating to the Orders of the Day.

1. Mr. Henry Hobhouse,—On second reading of Private Legislation Procedure (Wales) Bill, to move, That this House, while recognising that further devolution of its powers in connection with private bill legislation may be desirable, considers that such devolution should be preceded by a full inquiry into the manner in which the Private Legislation Procedure (Scotland) Act, 1899, has worked, and the extent to which it is capable of application to the rest of the United Kingdom.

2. Sir Francis Powell,—On second reading of Shops Bill, to move, That it be read a second time upon this day six months.

(Two similar motions follow.)

On consideration of Musical Copyright Bill, as amended:

Mr. Caldwell,—To move the following clauses:—

It shall be lawful for any police constable, on the request in writing of the owner of the copyright, or of his agent thereto authorised in

[1] Rating of Machinery Bill,—Motion made and question proposed, "That the bill be committed to the Standing Committee on Trade, etc."

writing, and on production to such police constable of a copy of the entry of such copyright in the book of registry, certified and impressed as aforesaid, and at the risk of such owner, to seize without warrant any pirated copies of such musical work which, within view of such constable, and in any public place or places to which the public have access, on payment or otherwise, are being hawked or carried about for purposes constituting an offence under this Act, and to bring the same before a court of summary jurisdiction for the purpose of its being determined, in accordance with the provisions hereinbefore contained, whether the same are or are not liable to forfeiture or destruction.

etc., etc.

There are also lists of two divisions taken at the preceding evening sitting, and the following list of printed answers to questions put on the previous Thursday.

Answers to Questions.

Q. Mr. Sloan.—To ask the Chief Secretary to the Lord Lieutenant of Ireland, whether he is aware that at a meeting of the Governors of the Cork Lunatic Asylum, held on the 7th instant, a resolution was passed condemning the Crown in the centre of the badge worn on the caps of the attendants; and deciding to discontinue its use in future on the ground that it was a party badge and repulsive to the feelings of the attendants; and, if so, will he say if such resolution has the sanction of the Irish Government. [23rd March 1904.]

A. Mr. Wyndham.—I am informed that a resolution of the character mentioned was passed at a meeting of the Asylum Committee on the 8th instant, after a number of members had left. The resolution does not require the sanction of the Government. [24 March 1904.]

Q. Captain Bagot.—To ask the Secretary of State for the Home Department if he can state in how many British prisons mats are made by the prisoners; whether such mats are sold in competition with privately sold British mats; if so, by whose authority; or, if not, what is done with them; whether he can state the approximate number of prisoners in Great Britain employed on making mats, brushes, or other articles which compete in the market with private enterprise; and whether he will consider the advisability of marking such goods with a broad arrow or other distinctive mark. [24th March 1904.]

A. Mr. Secretary Akers Douglas.—I can answer only for prisons in England and Wales. In twenty-two of these, mats have been made in the current year. Government departments take almost the whole output, the rest is sold to private firms. The quantities are so small that they cannot, I think, interfere with the general trade; and the Prison Commissioners take great care that there shall be no competition with free labour at "cutting prices."

About 11,000 prisoners are engaged daily in productive industries, including those mentioned in the question, and of these it is estimated that about one hundred may be engaged on mats for private sale. Articles other than mats are very rarely sold to private firms and only when exceptional necessity arises. I do not think that the suggested marking of the goods is desirable; it might have an effect precisely the opposite of that which my honourable and gallant friend probably desires. [24th March 1904.]

etc. etc.

(There are altogether thirty more questions and answers.)

XIV

Closure by Compartments

Mr. Balfour's Resolution of 11th November 1902.

Motion made, and question proposed:—

That the proceedings in committee and on report of the Education (England and Wales) Bill (including proceedings on the financial resolution relating thereto) shall, unless previously disposed of, be brought to a conclusion at the times and in the manner hereinafter mentioned:—

(*a*) The proceedings in committee on the remaining part of Clause 12, and on Clause 13 on Wednesday, 12th November; (*b*) the proceedings on Clauses 14, 15, 16, and 17 on Thursday, 13th November; (*c*) the proceedings on clauses 18, 19, and 20, and on the committee stage of the financial resolution, on Friday, 14th November; (*d*) the proceedings on report of the financial resolution, and on the new clause relating to the aid grant, on Monday, 17th November; (*e*) the proceedings on the new clauses relating to endowments, local authority's managers, and grouping, on Tuesday, 18th November; (*f*) the proceedings on the new clause relating to managers, and any other Government new clauses, on schedules, and any new Government schedules and any other proceedings necessary to bring the committee stage to a conclusion, on Thursday, 20th November; (*g*) the consideration of the report shall be appointed for Tuesday, 25th November; and the proceedings on report on any new clauses and on amendments to Parts I and II of the bill shall be brought to a conclusion on that day; (*h*) the proceedings on report on amendments to Part III of the bill shall be brought to a conclusion on Thursday, 27th November; (*i*) the proceedings on the report of the bill shall be concluded on Friday, 28th November.

At 11 p.m., on the said days, or if the day is a Friday, at 4.30 p.m., the chairman or Speaker shall put forthwith the question or questions on any amendment or motion already proposed from the chair, and shall next proceed successively to put forthwith the question on any amendments moved by the Government, of which notice has been given, but no other amendments, and on every question necessary to dispose of the allotted business.

In the case of new clauses and schedules, he shall put only the question that such clause or schedule be added to the Bill.

Proceedings under this order shall not be interrupted (except at an afternoon sitting at 7.30 p.m.) under the provisions of any standing order relating to sittings of the House.

After the passing of this order, on any day on which any proceedings on the Education (England and Wales) Bill stand as the first order of the day, no dilatory motion on the bill, nor under Standing Order 17, nor motion to postpone a clause, shall be received unless moved by the minister in charge of the bill, and the question on any such motion shall be put forthwith.

If progress be reported, the chairman shall put this order in force in any subsequent sitting of the committee. *(Mr. A. J. Balfour.)*

XV

Specimens of Form of Estimates

I—Abstract of Navy Estimates, 1902–1903

Votes.	Gross Estimate.	Appropriations in aid.	Net Estimate.
I.—Numbers.			
A. Total number of officers, seamen, boys, Coast-guard, and Royal Marines.	122,500	—	122,500
II.—Effective Services.	£	£	£
1. Wages, etc., of officers, seamen, and boys, Coast-guard, and Royal Marines.	6,079,545	117,545	5,962,000
2. Victualling and clothing for the Navy	2,512,706	489,206	2 023,500
3. Medical establishments and services	269,410	22,910	246,500
4. Martial Law	17,892	192	17,700
5. Educational services	133,023	31,323	101,700
6. Scientific services	86,092	20,492	65,600
7. Royal Naval Reserves	287,077	177	286,900
8. Shipbuilding, Repairs, Maintenance, etc.:—			
Section I.—Personnel	2,674,415	12,915	2,661,500
Section II.—Matériel	5,017,700	205,000	4,812,700
Section III.—Contract work	7,738,150	72,350	7,665,800
9. Naval armaments	3,420,175	63,775	3,356,400
10. Works, buildings, and repairs at home and abroad.	1,128,000	28,000	1,100,000
11. Miscellaneous effective services	381,663	13,663	368,000
12. Admiralty office	303,300	9,000	294,300
Total effective services	30,049,148	1,086,548	28,962,600
III.—Non-Effective Services.			
13. Half-pay, reserved and retired pay	794,352	12,252	782,100
14. Naval and marine pensions, gratuities and compassionate allowances.	1,182,682	21,982	1,160,700
15. Civil pensions and gratuities	350,535	435	350,100
Total non-effective services	2,327,569	34,669	2,292,900
Grand Total	32,376,717	1,121,217	31,255,500

II—Division of Votes into Subheads

Vote 12 (Admiralty Office) is divided into the following subheads:—

	£
A.—Salaries and allowances	263,634
B.—Pay of boy clerks, hired writers, etc.	7,250
C.—Salaries and wages of office keepers, messengers, etc.	15,091
D.—Commission to Admiralty shipping agents	1,400
E.—Travelling expenses, etc.	11,500
F.—Contingencies	4,425
	303,300
Deduct—	
G.—Appropriations in aid	9,000
	£ 294,300

III—Division of Subheads

Subhead A. (Salaries and Allowances) is divided as follows:—

	£
Lords of the Admiralty and Secretaries	14,400
Secretary's Department	18,354
Department of the Controller of the Navy	79,525
Department of the Director of Naval Ordnance	20,785
Department of the Accountant-General	51,218
Victualling Department	8,184
Contract and Purchase Department	8,793
Medical Department	7,207
Department of the Director of Transports	11,526
Department of the Director of Works	24,177
Royal Naval Reserves Office	4,939
Naval Intelligence Department	10,926
Naval Adviser to the Inspector-General of Fortifications	700
Chaplain of the Fleet	400
Remuneration to clerks, draughtsmen, &c.	2,500
Total	£263,634

IV—Details of the foregoing

The first subhead (Lords of the Admiralty and Secretaries) is further analysed as follows:—

	£
Lords of the Admiralty:—	
First Lord (with a house)	4,500
First Naval Lord (with a house)	1,500
Second Naval Lord (including an allowance for residence, £200)	1,200
Junior Naval Lord (including an allowance for residence, £200)	1,200
Civil Lord (Parliamentary)	1,000
Parliamentary and Financial Secretary	2,000
Permanent Secretary (including an allowance for residence, £200)	2,000
Private Secretary to First Lord	1,000
	£14,400

XVI

Vote on Account

4 Edward VII., c. 1 (29 March 1904).

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sums hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom of Great Britain and and Ireland, and apply towards making good the supply granted to His Majesty for the service of the year ending on the 31st day of March 1904 the sum of £4,256,177.

2. The Treasury may issue out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and apply towards making good the supply granted to His Majesty for the service of the year ending on the 31st day of March 1905, the sum of £39,571,200.

3.—(1) The Treasury may borrow from any person, by the issue of Treasury bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sums any sum or sums not exceeding in the whole £43,827,377.

(2) The date of payment of any Treasury bills issued under this section shall be a date not later than the 31st day of March 1905, and section 6 of the Treasury Bills Act, 1877 (which relates to the renewal of bills), shall not apply with respect to those bills.

(3) Any money borrowed otherwise than on Treasury bills shall be repaid, with interest not exceeding £5 per cent. per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer and shall form part of the said Consolidated Fund, and be available in any manner in which such fund is available.

4. This Act may be cited as the Consolidated Fund (No. 1) Act, 1904.

XVII

Appropriation Act, 1904

4 EDWARD VII, c. 17 (15 AUGUST 1904).

Most Gracious Sovereign,

We Your Majesty's most dutiful and loyal subjects (*as in No. XVI*).

GRANTS OUT OF CONSOLIDATED FUND.

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and apply towards making good the supply granted to His Majesty for the service of the year ending on the 31st day of March 1905 the sum of £73,083,164.

2.—(1) The Treasury may borrow from any person, by the issue of Treasury bills or otherwise and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sums, any sum or sums not exceeding in the whole £73,083,164.

(2) The date of payment of any Treasury bills issued under this section shall be a date not later than the 31st day of March 1905, and section 6 of the Treasury Bills Act, 1877 (which relates to the renewal of bills), shall not apply with respect to those bills.

(3) Any money borrowed otherwise than on Treasury bills shall be repaid with interest not exceeding £5 per cent. per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such fund is available.

APPROPRIATION OF GRANTS.

3. All sums granted by this Act and the other Act mentioned in schedule (A) annexed to this Act out of the said Consolidated Fund towards making good the supply granted to His Majesty, amounting, as appears by the said schedule, in the aggregate, to the sum of £116,910,541 are appropriated and shall be deemed to have been appropriated as from the date of the passing of the Act mentioned in the said schedule (A), for the services and purposes expressed in schedule (B) annexed hereto.

The abstract of schedules and schedules annexed hereto, with the notes (if any) to such schedules, shall be deemed to be part of this Act, in the same manner as if they had been contained in the body thereof.

In addition to the sums hereby granted out of the Consolidated Fund, there may be applied out of any money directed under section 2 of the Public Accounts and Charges Act, 1891, to be applied as appropriations in aid of the grants for the services and purposes specified in schedule (B) annexed hereto, the sums respectively set forth in the last column of the said schedule.

4. If a necessity arise for incurring expenditure not provided for in the sums appropriated to naval and military services by this Act, and which it may be detrimental to the public service to postpone until provision can be made for it by Parliament in the usual course, the department entrusted with the control over the said service shall forthwith make application in writing to the Treasury for their authority to defray temporarily such expenditure out of any surpluses which may have been or which may be effected by the saving of expenditure upon votes within the same department, and in such application the department shall represent to the Treasury the circumstances which may render such additional expenditure necessary, and thereupon the Treasury may authorise the expenditure unprovided for as aforesaid to be temporarily defrayed out of any surpluses which may have been or may be effected as aforesaid upon votes within the same department; and a statement showing all cases in which the naval and military departments have obtained the sanction of the Treasury to any expenditure not provided for in the respective votes aforesaid accompanied by copies of the representations made to them by the said department shall be laid before the House of Commons with the appropriation accounts of navy and army services for the year, in order that such proceedings may be submitted for the sanction of Parliament and that provision may be made for the deficiencies upon the several votes for the said services, in such manner as Parliament may determine.

The Treasury shall not authorise any expenditure which may cause an excess upon the aggregate sums appropriated by this act for naval services and for army services respectively.

5. Whereas the Treasury, under the powers vested in them by the Appropriation Act, 1902, and the Appropriation Act, 1903, have authorised expenditure not provided for in the sums appropriated by the said acts to certain votes for naval and military services for the year ended on the 31st day of March 1903 to be temporarily defrayed out of surpluses effected by the saving of expenditure on other votes for naval and military services for the said year; viz.:—

1. A sum of £365,747 13*s.* 11*d.* for navy services out of the unexpended balances of certain votes:
2. A sum of £2,167,115 19*s.* 4*d.* for army services out of the unexpended balances of certain votes:

it is enacted that the application of the said sums is hereby sanctioned.

6. A person shall not receive any part of a grant which may be made in pursuance of this Act for half-pay or army, navy or civil non-effective services, until he has subscribed such declaration as may from time to time be prescribed by a warrant of the Treasury before one of the persons prescribed by such warrant.

Provided that whenever any such payment is made at more frequent intervals than once in a quarter, the Treasury may dispense with the production of more than one declaration in respect of each quarter.

Any person who makes a declaration for the purpose of this section, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanor.

7. This act may be cited for all purposes as the Appropriation Act, 1904.

ABSTRACT OF SCHEDULES (A) AND (B) TO WHICH THIS ACT REFERS.

SCHEDULE (A).

Grants out of the Consolidated Fund - - - £116,910,541

SCHEDULE (B).—APPROPRIATION OF GRANTS.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
1903–1904.	£ s. d.	£ s. d.
Part 1. Navy (Supplementary)	1,270,000 0 0	38,000 0 0
„ 2. Army (Supplementary)	2,700,000 0 0	3,430,000 0 0
„ 3. Civil Services (Supplementary)	286,177 0 0	17,500 0 0
£	4,256,177 0 0	3,485,500 0 0
1904–1905.		
„ 4. Navy	36,889,500 0 0	1,438,338 0 0
„ 5. Army	28,830,000 0 0	3,541,049 0 0
„ 5. Army (Ordnance Factories)	70,000 0 0	3,690,000 0 0
£	65,789,500 0 0	8,669,387 0 0
„ 6. Civil Services, Class I.	2,622,818 0 0	95,635 0 0
„ 7. Ditto Class II.	2,688,711 0 0	587,737 0 0
„ 8. Ditto Class III.	3,881,853 0 0	753,049 0 0
„ 9. Ditto Class IV.	15,798,217 0 0	27,118 0 0
„ 10. Ditto Class V.	2,055,288 0 0	172,191 0 0
„ 11. Ditto Class VI.	661,246 0 0	147 0 0
„ 12. Ditto Class VII.	350,084 0 0	5,500 0 0
Total Civil Services £	28,058,217 0 0	1,641,377 0 0
„ 13. Revenue Departments, etc. £	18,806,647 0 0	513,625 0 0
Grand Total £	116,910,541 0 0	14,309,889 0 0

SCHEDULE (A).

GRANT OUT OF THE CONSOLIDATED FUND.

	£	s.	d.
For the service of the year ended on the 31st March 1904:—			
Under Act 4 Edw. 7, c. 1	4,256,177	0	0
For the service of the year ending on 31st March 1905:—			
Under Act 4 Edw. 7, c. 1	39,571,200	0	0
Under this Act	73,083,164	0	0
Total	116,910,541	0	0

SCHEDULE (B).

[Gives particulars of the amounts set out in the Abstract printed above.]

XVIII

Statistics as to Legislation by the House of Commons

A.—Public Bills, 1890–1903.

	1890.	1890–1.	1892.	1893–4.	1894.	1895.	1896.	1897.	1898	1899.	1900.	1901.	1902.	1903.
Public bills introduced in the House of Commons.	384	403	393	457	332	335	336	324	314	289	300	303	300	311
Public bills which received royal assent.	140	154	144	139	130	100	138	131	121	116	124	127	121	128
Public bills introduced in but not passed by the House of Commons.	229	229	238	294	194	209	176	184	174	157	157	156	171	162
Public bills sent down from the House of Lords but not passed by the House of Commons.	15	17	10	18	5	15	21	8	18	15	19	19	8	18
Public bills passed by the House of Commons but not passed by the House of Lords.	—	3	1	6	3	11	1	1	1	1	—	1	—	

B.—Private Bills, 1898–1903.

	1898.	1899.	1900.	1901.	1902.	1903.
Private bills introduced on petition in the House of Commons.	125	136	145	129	115	116
Private bills sent down from the House of Lords	103	113	113	94	82	96
Private Bills sent down from the House of Lords as Estate bills.	1	1	—	—	—	2
Divorce bills	2	2	—	—	—	—
Provisional Order Confirmation bills	56	64	62	85	76	79
Hybrid bills	3	1	1	—	—	4
Total	290	317	321	308	273	297
Royal Assent: Private bills	206	215	231	196	182	184
Royal Assent: Provisional Order Confirmation bills.	55	63	59	85	76	78
Royal Assent: Hybrid bills	3	1	1	—	—	3
Passed by Commons but not by Lords	5	3	4	1	1	3
Withdrawn or abandoned by parties	14	17	7	9	6	14
Rejected in House or by Standing Orders Committee.	3	5	3	6	3	1
Rejected in Committee	3	11	6	8	5	8

XIX

Financial Summary, 1903

Income.

—	(1) Budget Estimate, 1902-3.	(2) Exchequer Receipts, 1902-3.	(3) Budget Estimate, 1903-4.
	£	£	£
1. Customs	35,200,000	34,433,000	34,640,000
Inland Revenue:—			
2. Excise	32,700,000	32,100,000	32,700,000
3. Estate, &c., duties	13,200,000	13,850,000	13,300,000
4. Stamps	8,200,000	8,200,000	8,400,000
5. Land tax	740,000	725,000	750,000
6. House duty	1,760,000	1,825,000	1,850,000
7. Property and Income tax	38,600,000	38,800,000	30,500,000
Total exchequer receipts from taxes	130,400,000	129,933,000	122,140,000
8. Post Office	14,800,000	14,750,000	15,300,000
9. Telegraph service	3,630,000	3,630,000	3,800,000
10. Crown lands	475,000	455,000	445,000
11. Receipts from Suez Canal Shares and sundry loans.	880,000	58,000	935,000
12. Miscellaneous	2,000,000	1,826,000	1,650,000
Total exchequer receipts from non-tax revenue	21,785,000	21,619,000	22,130,000
Totals	152,185,000	151,552,000	144,270,000

Expenditure, inclusive of War Charges.

—	(4) Total Expenditure, provided for in revised Budget Statement, 1902-3.	(5) Amount issued to meet Total Expenditure, 1902-3.	Budget Estimate for 1903-4.
	£	£	£
I. Consolidated Fund Services:—			
1. National Debt Services	27,400,000	27,282,000	27,000,000
2. Other Consolidated Fund Services	1,645,000	1,633,000	1,763,000
Payments to Local Taxation Accounts	1,155,000	1,156,000	1,156,000
Total Consolidated Fund Services	30,200,000	30,071,000	29,919,000

	(4) Total Expenditure, provided for in revised Budget Statement, 1902-3.	(5) Amount issued to meet Total Expenditure, 1902-3.	(6) Budget Estimate for 1903-4.
II. Supply Services:—	£	£	£
1. Army (including ordnance factories) -	69,665,000	69,440,000	34,500,000
2. Navy - - - - -	31,255,000	31,170,000	34,457,000
3. Civil Services - - - -	27,448,000	36,200,000	26,561,000
4. Customs and Inland Revenue - -	3,039,900	3,040,000	3,113,000
5. Post Office - - - - -	9,762,000	9,630,000	10,068,000
6. Telegraph Service - - -	4,211,000	4,162,000	4,549,000
7. Packet Service - - - -	719,000	771,000	787,000
Total Supply Services - - -	146,159,000	154,413,000	114,035,000
Grand Totals - - -	176,359,000	184,484,000	143,954,000
Balance - - -	- - -	- - -	316,000
			144,270,000

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